

Genesee County Economic Development Center Meeting Agenda

Thursday, December 1, 2022

Location: 99 MedTech Drive, Innovation Zone

PAGE #

1.0

Call to Order

1.1 **Enter Executive Session**

4:00 pm

Motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105 for the following reasons:

1. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.
2. Discussions regarding proposed, pending or current litigation.

4:00 pm

1.2 **Enter Public Session**

2.0 **Chairperson's Report & Activities**

5:05pm

2.1 Upcoming Meetings:

5:05pm

Next Scheduled Board Meeting: Thursday, December 15th at 4 p.m.

Employment & Compensation Committee Meeting: Thursday, December 15th at 3 p.m.

Audit & Finance Committee Meeting: Tuesday, January 10th at 8:30 a.m.

STAMP Committee Meeting: Wednesday, January 11th at 8 a.m.

Board Meeting: Thursday, January 12th at 4 p.m.

2023 Meeting Calendar

2.2 Agenda Additions / Deletions / Other Business ****Vote**

2.3 Minutes: November 1, 2022 ****Vote**

3.0 **Report of Management –**

5:10pm

3.1 NY CDG Genesee 4 LLC – Initial Resolution ****Vote C. Suozzi**

3.2 RPNY Solar 6, LLC – Final Resolution ****Vote C. Suozzi**

3.3 RPNY Solar 7, LLC – Final Resolution ****Vote C. Suozzi**

3.4 AES Rt. 5 Storage Solar – Final Resolution ****Vote C. Suozzi**

3.5 Hecate Energy Cider Solar LLC – Final Resolution ****Vote J. Krenick / S. Hyde**

4.0 **Audit & Finance Committee – M. Gray**

5:25pm

4.1 October 2022 Financial Statements ****Vote**

4.2 Insurance Renewal ****Vote**

4.3 Audit Services ****Vote**

4.4 Apple Tree Acres PSA & Authorizing Resolution ****Vote**

4.5 LeRoy PSA, Authorizing Resolution & Commission Agreement ****Vote**

4.6 Consulting Assistance on Local Labor Policy Reporting (Hecate/Cider Solar) ****Vote**

4.7 e3communications Contract ****Vote**

4.8 Greater Rochester Enterprise Contract ****Vote**

4.9 Invest Buffalo Niagara Contract ****Vote**

4.10 Workforce Consulting Agreement ****Vote**

5.0 **Governance & Nominating Committee – C. Yunker**

5:45pm

5.1 Nothing at this time.

6.0 **STAMP Committee – P. Zeliff**

5:45pm

6.1 NYISO Deposit Increase from \$5,000 to \$10,000 ****Vote**

6.2 CPL Final Design & Bid Packet for WWTF Contract ****Vote**

6.3 STAMP Maintenance of Common Space Areas ****Vote**

6.4 Access License Agreement for Edwards/Affiliates for Due Diligence Work ****Vote**

6.5 CPL Proposal for SEQR Preparation for Infrastructure at STAMP ****Vote**

6.6 e3communications STAMP Contract ****Vote**

7.0 **Employment & Compensation Committee – T. Bender**

5:55pm

7.1 CEO Merit / COLA ****Vote**

8.0 **Housing Committee – P. Battaglia**

6:00pm

8.1 Nothing at this time.

9.0 **Other Business**

6:00pm

9.1 Nothing at this time.

10.0 **Adjournment**

6:00pm

2-3

4-17

18-25

26-56

57-87

88-109

110-221

222-225

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227-228

229-242

243-258

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260-265

266-267

268-272

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278-285

286-290

291-299

300-303

304-310

GCEDC/GGLDC 2023 Meeting Schedule

JANUARY

Tuesday, January 10, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am
Wednesday, January 11, 2023	GCEDC STAMP Committee	8:00am
Thursday, January 12, 2023	GCEDC/GGLDC Board Meeting [Board Photos]	4pm
Tuesday, January 31, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am

FEBRUARY

Wednesday, February 1, 2023	GCEDC STAMP Committee	8:00am
Thursday, February 2, 2023	GCEDC/GGLDC Governance & Nominating Committee	3pm
Thursday, February 2, 2023	GCEDC/GGLDC Board Meeting	4pm
Tuesday, February 28, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am

MARCH

Wednesday, March 1, 2023	GCEDC STAMP Committee	8:00am
Thursday, March 2, 2023	GCEDC/GGLDC Board Meeting	4pm
Wednesday, March 29, 2023	GCEDC STAMP Committee	8:00am – Adj. per below
Thursday, March 30, 2023	GCEDC/GGLDC Audit & Finance Committee	3pm – Audit & PARIS 3/31 deadline
Thursday, March 30, 2023	GCEDC/GGLDC Board Meeting	4pm – Audit & PARIS 3/31 deadline
TBD	Annual Meeting	

APRIL

No Meetings Scheduled

MAY

Tuesday, May 2, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am
Wednesday, May 3, 2023	GCEDC STAMP Committee	8:00am
Thursday, May 4, 2023	GCEDC/GGLDC Governance & Nominating Committee	3pm
Thursday, May 4, 2023	GCEDC/GGLDC Board Meeting	4pm
Tuesday, May 30, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am
Wednesday, May 31, 2023	GCEDC STAMP Committee	8:00am

JUNE

Thursday, June 1, 2023	GCEDC/GGLDC Governance & Nominating Committee	3pm
Thursday, June 1, 2023	GCEDC/GGLDC Board Meeting	4pm
Tuesday, June 27, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am
Wednesday, June 28, 2023	GCEDC STAMP Committee	8:00am
Thursday, June 29, 2023	GCEDC/GGLDC Board Meeting	4pm – Holiday Adjustment

JULY

No Meetings Scheduled

AUGUST

Tuesday, August 1, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am – GCEDC Budget Workshop
Wednesday, August 2, 2023	GCEDC STAMP Committee	8:00am
Thursday, August 3, 2023	GCEDC/GGLDC Board Meeting	3pm – Glow Corporate Cup

SEPTEMBER

Tuesday, September 5, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am – GCEDC Draft Budget Review
Wednesday, September 6, 2023	GCEDC STAMP Committee	8:00am
Thursday, September 7, 2023	GCEDC/GGLDC Board Meeting	4pm

OCTOBER

Tuesday, October 3, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am – GGLDC Budget Workshop
Wednesday, October 4, 2023	GCEDC STAMP Committee	8:00am
Thursday, October 5, 2023	GCEDC/GGLDC Board Meeting	4pm
Tuesday, October 24, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am – GGLDC Draft Budget Review
Wednesday, October 25, 2023	GCEDC STAMP Committee	8:00am
Thursday, October 26, 2023	GCEDC Employment & Compensation Committee	3:00pm
Thursday, October 26, 2023	GCEDC/GGLDC Board Meeting	4pm – 11/2 Budget Deadline

NOVEMBER

No Meetings Scheduled

DECEMBER

Tuesday, December 5, 2023	GCEDC/GGLDC Audit & Finance Committee	8:30am
Wednesday, December 6, 2023	GCEDC STAMP Committee	8:00am
Thursday, December 7, 2023	GCEDC Employment & Compensation Committee	3pm
Thursday, December 7, 2023	GCEDC/GGLDC Board Meeting	4pm
Thursday, December 21, 2023	GCEDC Employment & Compensation Committee	3pm
Thursday, December 21, 2023	GCEDC/GGLDC Board Meeting	4pm



**GCEDC Board Meeting
Tuesday, November 1, 2022
Location: 99 MedTech Drive, Innovation Room
8:30 AM**

GCEDC MINUTES

Attendance

Board Members:

Staff:

Guests:

Absent:

C. Yunker, P. Battaglia (Video Conference*), P. Zelif, M. Gray, T. Bender
L. Farrell, M. Masse, S. Hyde, L. Casey, J. Krencik, C. Suozzi, P. Kennett
D. Cunningham (GGLDC Board Member), J. Tretter (GGLDC Board Member), S.
Noble-Moag (GGLDC Board Member), B. Quinn (Daily News), R. Gaenzle
(Harris Beach), Harrison Luna (Hecate Energy/Cider Solar)
C. Kemp, M. Clattenburg

* Attending from physical location identified in meeting notice as open to the public.

At 8:33 a.m. in the Innovation Zone, J. Krencik began the meeting by providing an overview of the Cider Solar project. Hecate Energy Cider Solar LLC is proposing to construct a 500 MW utility scale solar farm project on 2,455 acres at various properties in the towns of Elba and Oakfield. It is an investment of \$550,000,000.

The project will provide enhanced property tax-type payments to the host municipalities through 30-year PILOT, which is a variance in the UTEP, and Host Community Agreements that will contribute fiscally at a significantly greater level than the current agricultural-vacant land property tax payments generated by the project's properties. Ultimately, the host municipalities will receive about \$73,500,000 of PILOT and Host payments over the 30-year life of the PILOT.

Presentation – Cider Solar - Harrison Luna reiterated that the Cider Solar project is a 500 MW utility scale solar farm project located in the towns of Elba and Oakfield and will be interconnected with the electric grid. Construction is anticipated to begin in March of 2023 and will take about 18 months to complete. S. Hyde stated that the developer would like to close with the IDA before December 31st so that they can begin the procurement process before year-end. If the Initial Resolution is approved today, the public hearing will be held in late November and the Final Resolution will be brought forward at the December 1, 2022 Board meeting. At that time, S. Hyde will seek an approval that is contingent upon the Towns (Elba & Oakfield) and the County approving the PILOT and Host Community Agreement.

B. Quinn (Daily News), and Harrison Luna (Hecate Energy/Cider Solar) left the meeting at 8:40 a.m.

C. Yunker stated that he is a partner of CY Properties. CY Properties is under contract with Cider Solar. He stated that there is no direct conflict because of this relationship with Cider Solar, but to avoid the appearance of conflict he will recuse himself from discussions regarding the project. C. Yunker left the meeting at 8:41 a.m.

2.0 Chairman's Report & Activities

2.1 Upcoming Meetings:

Next Scheduled Board Meeting: Thursday, December 1st at 4:00 p.m.

Audit & Finance Committee Meeting: Tuesday, November 29th at 8:30 a.m.

STAMP Committee Meeting: Wednesday, November 30th at 8:00 a.m.

Employment & Compensation Committee Meeting: Thursday December 1st at 3 p.m.

2.2 Agenda Additions / Deletions / Other Business – Nothing at this time.

2.3 Minutes: October 6, 2022

T. Bender made a motion to accept the minutes from October 6, 2022; the motion was seconded by M. Gray. Roll call resulted as follows:

P. Battaglia -	Yes (Video Conference)	C. Yunker -	Absent
T. Bender -	Yes	P. Zeff -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

To maintain a quorum for agenda item 3.6, the Board needed to address it before any other business took place. This is because C. Yunker recused himself from any discussions related to Cider Solar and P. Battaglia needed to leave the meeting at 9 a.m. promptly.

3.6 Cider Solar – Initial Resolution - Hecate Energy Cider Solar LLC is proposing to construct a utility scale solar farm project at various properties in the towns of Elba and Oakfield.

The project will be located on 2,455 acres and utilize solar panels mounted on tracking panel racks to convert the sun's energy into 500 MW of AC power and will be interconnected with the electric grid.

The project will provide enhanced property tax-type payments to the host municipalities through 30-year PILOT and Host Community Agreements that will contribute fiscally at a significantly greater level (\$35.23 million PILOT payments, \$38.35 million Host Community Agreement Payments) than the current agricultural-vacant land property tax payments generated by the project's properties.

This project has an estimated \$87.9 million fiscal economic impact (PILOT payments, Host Community Agreement payments, fire district payments, elimination of ag-exemptions on acreage used for solar panels, and Residential Utility Bill Credits) and results in an estimated return of \$23 in economic impacts vs the tax impacts of the land's prior use.

Resolution No. 11/2022 - 06

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF HECATE ENERGY CIDER SOLAR LLC WITH RESPECT TO A CERTAIN PROJECT, (ii) AUTHORIZING A PUBLIC HEARING WITH

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RESPECT TO THE PROJECT, AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT.

P. Battaglia made a motion to accept Initial Resolution #11/2022-06, authorizing the acceptance of the application and scheduling of a public hearing as presented; the motion was seconded by M. Gray. Roll call resulted as follows:

P. Battaglia -	Yes (Video Conference)	C. Yunker -	Absent
T. Bender -	Yes	P. Zeliff -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

C. Yunker rejoined the meeting at 8:57 a.m.

To manage a quorum issue with the Genesee Gateway Local Development Corp., the GCEDC Board needed to temporarily adjourn. M. Gray made a motion to adjourn at 8:45 a.m., which was seconded by P. Battaglia and passed unanimously.

1.0 Call to Order

P. Battaglia left the meeting at 8:58 a.m.

P. Zeliff called the meeting to order at 8:58 a.m. in the Innovation Zone.

1.1 Enter Executive Session

C. Yunker made a motion to enter executive session under the Public Officers Law, Article 7, Open Meetings Law Section 105, at 8:58 a.m. for the following reasons:

1. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation.
2. Discussions regarding proposed, pending, or current litigation.

The motion was seconded by T. Bender and approved by all members present.

J. Tretter left the meeting during executive session at 9:38 a.m.

1.2 Enter Public Session

M. Gray made a motion to enter back into public session at 9:53 a.m., seconded by C. Yunker and approved by all members present.

3.0 Report of Management

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3.1 8250 Park Rd. LLC– Final Resolution – 8250 Park Rd, LLC is seeking to purchase, renovate, and modernize the former Quality Inn & Suites and Palm Island Indoor Water Park on Park Road in the Town of Batavia.

The \$12 million project will enable the company to significantly upgrade the building exterior, and fully upgrade the interior hotel rooms, lobby, event spaces, restaurant, and improvements to the hotel's water park, a significant tourism draw. The project plans to create 38 FTE's and retain 4.5 FTE's from the former hotel.

The company is requesting assistance from the GCEDC with a sales tax exemption estimated at \$458,400, a property tax abatement estimated at \$659,521 based on incremental increase in assessed value via new traditional PILOT, and a mortgage tax exemption estimated at \$80,000.

A public hearing was held on October 26, 2022. No written or oral comments were received.

The Board voted on the Uniform Tax Exemption Policy (UTEF) at the October 6, 2022 meeting because they authorized a mortgage tax exemption of a not to exceed amount of \$80,000 to the company. No changes have been made to the UTEF so the board did not vote on the criteria again. See the UTEF attached to the minutes for additional Project details and Board approvals.

Resolution No. 11/2022 - 01

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON OCTOBER 26, 2022, WITH RESPECT TO THE 8250 PARK RD LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iii) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN EXCESS OF \$100,000.00 IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT AND (C) A MORTGAGE RECORDING TAX EXEMPTION AS AUTHORIZED BY THE LAWS OF THE STATE OF NEW YORK; AND (iv) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

C. Yunker made a motion to accept Final Resolution #11/2022-01, accepting the incentives as presented; the motion was seconded by M. Gray. Roll call resulted as follows:

P. Battaglia -	Absent	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

3.2 RPNY Solar 6, LLC– Initial Resolution - RPNY Solar 6, LLC is proposing to construct a community solar farm project on Alexander Road in the Town of Batavia. The project will utilize 8,346 solar panels and 24 string inverters on approximately 17 of 29 acres on the property to convert the sun's energy into 3

MW of AC power. The project will utilize single axis tracking technology to allow the modules to efficiently track the sun throughout the day to maximize the efficiency of solar collection.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County and Alexander Central School District in addition to revenue in a separate host benefit agreement with the town of Batavia. The PILOT is estimated to generate \$207,521 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Resolution No. 11/2022 - 02

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF RPNY SOLAR 6, LLC WITH RESPECT TO A CERTAIN PROJECT (THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT.

C. Yunker made a motion to accept Initial Resolution #11/2022-02, authorizing the acceptance of the application and scheduling of a public hearing as presented; the motion was seconded by T. Bender. Roll call resulted as follows:

P. Battaglia -	Absent	C. Yunker -	Yes
T. Bender -	Yes	P. Zeliff -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

3.3 RPNY Solar 7, LLC – Initial Resolution- RPNY Solar 7, LLC is proposing to construct a community solar farm project on Alexander Road in the Town of Batavia. The project will utilize 6,214 solar panels and 20 string inverters on approximately 13 of 69 acres on the property to convert the sun's energy into 2.5 MW of AC power. The project will utilize single axis tracking technology to allow the modules to efficiently track the sun throughout the day to maximize the efficiency of solar collection.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County and Batavia City School District in addition to revenue in a separate host benefit agreement with the town of Batavia. The PILOT is estimated to generate \$172,934 in PILOT payments over the 15-year

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term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Resolution No. 11/2022 – 03

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF RPNY SOLAR 7, LLC WITH RESPECT TO A CERTAIN PROJECT (THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT.

M. Gray made a motion to accept Initial Resolution #11/2022-03, authorizing the acceptance of the application and scheduling of a public hearing as presented; the motion was seconded by C. Yunker. Roll call resulted as follows:

P. Battaglia -	Absent	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

3.4 AES Rt. 5 Storage Solar- Initial Resolution- AES Rt 5 Storage, LLC is proposing to construct a community solar farm project on West Main Road in the Town of Le Roy. The project will utilize ground-mounted solar panels to convert the sun's energy into 5 MW of AC power. The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County, Town of Le Roy, and Le Roy Central School District. The PILOT is estimated to generate \$345,868 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Resolution No. 11/2022 – 04

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF AES RT 5 STORAGE, LLC WITH RESPECT TO A

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CERTAIN PROJECT (THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT.

C. Yunker made a motion to accept Initial Resolution #11/2022-04, authorizing the acceptance of the application and scheduling of a public hearing as presented; the motion was seconded by T. Bender. Roll call resulted as follows:

P. Battaglia -	Absent	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

3.5 Remlap Properties – Authorizing Resolution & Commission Agreement- The GCEDC engaged with Pyramid Brokerage to sell and market a retail lot at Apple Tree Acres in the Town of Bergen. Pyramid Brokerage has "Dollar General Store" interested in our 3.7 acre (1 buildable acre lot) to include the existing retention pond for \$250,000.

Resolution No. 11/2022 - 05

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") AUTHORIZING (i) THE SALE OF CERTAIN AGENCY OWNED REAL PROPERTY TO REMLAP PROPERTIES, LLC, AND (ii) THE EXECUTION OF A PURCHASE AND SALE AGREEMENT, A DEED, AN EASEMENT AGREEMENT, AND RELATED DOCUMENTS IN CONNECTION THEREWITH.

C. Yunker made a motion to approve Authorizing Resolution No. #11/2022-05 and PSA for the Apple Tree Acres Property and payment of legal fees not to exceed \$8,000, as well as the 10% commission agreement with Pyramid Brokerage as presented; the motion was seconded by M. Gray. Roll call resulted as follows:

P. Battaglia -	Absent	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

4.0 Audit & Finance Committee

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4.1 September 2022 Financial Statements - L. Farrell reviewed the September 2022 financial statements with the Board. The following was noted:

- On the balance sheet, Restricted Cash increased. We received the final payment of \$50,000 from the Town of Leroy to be used for improvements made to Leroy Food & Tech Park. In 2018, the Town of LeRoy signed an Intermunicipal Agreement with the GCEDC that committed to four annual payments of \$50,000. The Town of Leroy deferred payment in 2020 due to the pandemic. We have received 4 of 4 payments. This is recorded as unearned revenue until qualifying expenses are made.
- We did not close on any projects in September. We project to exceed budgeted fees at year-end.
- There is normal monthly activity.

The financial statements were reviewed in detail by the Committee and are recommended for approval.

M. Gray made a motion to approve the September 2022 Financial Statements as presented; the motion was seconded by T. Bender. Roll call resulted as follows:

P. Battaglia -	Absent	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

4.2 Batavia Home Fund Agreement – The Town and City of Batavia have approved the Batavia Home Fund Agreement. The agreement is that the GCEDC can utilize Host Benefit Agreements on housing projects (such as the one proposed at MedTech) to put money into the fund. The GCEDC would be the custodian of the funds, and any project would complete an application to request the money and there would be a three-person committee (GCEDC, Town and City) that would review the applications and make approvals/disapprovals. The allowable uses of the funds are as follows:

- i. Extraordinary development costs related to hazardous material abatement, remediation, flood hazard areas, etc.
- ii. Demolition / rehabilitation of vacant residential structures that cause community and neighborhood blight.
- iii. Provide incentives to the conversion of rental properties to single family homes.
- iv. Infrastructure modernization and improvements including all costs related to planning, design and constructing roadways, multi-modal, water, sewer, gas, electric, telecommunication enhancements, storm water management facilities and related green infrastructure including landscaping and streetscape improvements related to redevelopment projects.
- v. Expansion of sewer capacity at Wastewater Treatment Plant for Studies, Engineering, Construction and Expansion.
- vi. Matching funds to secure other grant resources to further capitalize redevelopment projects in the BOA area.

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- vii. Land assemblage, property acquisition and due diligence for Agency Projects consistent with Section 2 of this Agreement.
- viii. Marketing expenses for existing programs such as 421-F, 485-R and Core Housing Owner Incentive Exemption (CHOICE).
- ix. Grants to support CHOICE program.

Fund Commitment: None.

This was recommended for approval by the Committee.

M. Gray made a motion to approve the Batavia Home Fund Agreement as presented; the motion was seconded by C. Yunker. Roll call resulted as follows:

P. Battaglia -	Absent	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

4.3 Greater Rochester Enterprise Additional Support – Included with the meeting materials was a funding request of \$4,000 from Greater Rochester Enterprise. This assessment will support much needed office upgrades, including structural improvements to support a growing team, new video equipment, new carpet, paint, and boardroom furniture, totaling approximately \$108,000. Each Board level investor (20 in total) has been asked to consider supporting these improvements by contributing \$4,000 in additional funding as GRE is a non-profit organization that is membership funded without traditional sources of revenue.

S. Hyde stated that the GCEDC has committed to the same level of funding (\$50,000 per year) for over a decade. This level of membership enables the GCEDC to fully access all of GRE's sales and marketing talent and assets, receive advocacy on behalf of our agency for all our parks, as well as an executive board seat that allows S. Hyde to serve on GRE's Board of Directors.

S. Hyde also stated that GRE's support has been nothing short of incredible, further commenting that GRE was instrumental in the project win of LaFermiere and Project Kingfisher. The LaFermiere project will result in a capital investment of \$25 million and the creation of 135 jobs. In 2022 there have been 111 sales leads, of which, 40 came from GRE. Considering the political and sales support that GRE has provided, S. Hyde recommends approving this additional funding support, further stating that the size of the request is nominal relative to the support that they have provided. There is room within several line items of the budget (i.e. professional services) to make this payment. Nevertheless, the Board stated that they had concerns about the optics of this request.

The Board requested that GRE restructure their request for additional funding support. The Board tabled this agenda item. No action was taken.

5.0 Governance & Nominating Committee – C. Yunker

5.1 Nothing at this time.

6.0 STAMP Committee – P. Zelif

6.1 NYISO Deposit & Letter to Submit an Interconnection Request - In 2017 the GCEDC applied to the NYSIO with an interconnection request to draw down 500 MW from the 345 kV lines to the north of the STAMP site. Upon completion of the Systems Impact Study (SIS) and the facility study, the NYISO determined that the GCEDC could draw down 300 MW without having to pay for any improvement to the overall electrical grid. Upon conversations with NYPA, if the GCEDC would like to draw down 500 MW we need to submit another interconnection request to get in the interconnection queue. This is a four-step process:

Step 1: The GCEDC submits an interconnection request. The project description is to increase the load at the STAMP location. NYPA believes that there is a deposit required of \$5,000.

Step 2: NYISO holds a meeting with all affected parties to confirm the request as well as to discuss the scope.

Step 3: System Impact Reliability Study. NYISO performs this study and provides recommendations for any needed upgrade.

Step 4: Facility Study: The transmission Owner develops detailed scope and cost estimate for the scope. After this point, the project can be considered firm if you decide to move forward.

Potential future costs: The total cost of the SRIS may be between \$30,000 to \$100,000, depending on the scope. They require a \$150,000 deposit but you pay the actual study cost.

Fund Commitment: \$5,000.

This did not come before the STAMP Committee; therefore, no recommendation was made.

P. Zelif made a motion to approve submitting an interconnection request to NYISO with the required deposit of \$5,000 as presented; the motion was seconded by M. Clattenburg. Roll call resulted as follows:

P. Battaglia -	Absent	C. Yunker -	Yes
T. Bender -	Yes	P. Zelif -	Yes
M. Clattenburg -	Absent	M. Gray -	Yes
C. Kemp -	Absent		

The item was approved as presented.

7.0 Employment & Compensation – T. Bender

7.1 Nothing at this time.

8.0 Housing Committee – P. Battaglia

8.1 Nothing at this time.

9.0 Other Business

9.1 Nothing at this time.

10.0 Adjournment

As there was no further business, T. Bender made a motion to adjourn at 10:12 a.m., which was seconded by M. Gray and passed unanimously.



Project Name: 8250 Park Rd, LLC

Board Meeting Date: October 6, 2022

STATEMENT OF COMPLIANCE OF PROJECT CRITERIA LISTED IN UNIFORM TAX EXEMPTION POLICY (UTEP)

PROJECT DESCRIPTION:

8250 Park Rd, LLC is seeking to purchase, renovate, and modernize the former Quality Inn & Suites and Palm Island Indoor Water Park on Park Road in the Town of Batavia.

The \$12 million project will enable the company to significantly upgrade the building exterior, and fully upgrade the interior hotel rooms, lobby, event spaces, restaurant, and improvements to the hotel's water park, a significant tourism draw. The project pledges to create 38 FTE's and retain 4.5 FTE's.

The company is requesting assistance from the GCEDC with a sales tax exemption estimated at \$458,400, a property tax abatement estimated at \$659,521 based on incremental increase in assessed value via new traditional PILOT, and a mortgage tax exemption estimated at \$80,000.

Criteria #1 – The Project pledges to create and/or retain quality, good paying jobs in Genesee County.

Project details: The project is planning on creating 38 direct jobs and retaining 4.5 direct jobs between \$30,000-35,000 annual salary plus benefits.

Board Discussion: None.

P. Battaglia made a motion to concur with Criteria #1; the motion was seconded by M. Gray. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Absent
T. Bender -	Absent	P. Zeliff -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

Board Concurrence: YES NO If no, state justification:

Criteria #2- Completion of the Project will enhance the long -term tax base and/or make a significant capital investment.

Project details: The hotel is located along the thruway and is the gateway to our community/tourism center. It has been in decline for several years. Thus, the investment into this property will enhance the long-term tax base with an investment of \$12,000,000.

Board Discussion: None.

M. Gray made a motion to concur with Criteria #2; the motion was seconded by C. Kemp. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Absent
T. Bender -	Absent	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

Board Concurrence: YES NO **If no, state justification:**

Criteria #3- The Project will contribute towards creating a "livable community" by providing a valuable product or service that is underserved in Genesee County.

Project details: The project is significant to upgrading the facility as a main "gateway", in addition the indoor water park and increased in event space is valuable to our community.

Board Discussion: None.

M. Clattenburg made a motion to concur with Criteria #3; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Absent
T. Bender -	Absent	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

Board Concurrence: YES NO **If no, state justification:**

Criteria #4: The Board will review the Agency's Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.

The Fiscal impacts (discounted value) on Local Benefits totals \$27,775,818 (\$24,102,924 in payroll and \$3,672,895 to the public in tax revenues). See attached MRB Cost Benefit Calculator.

Project details: For every \$1 of public benefit the company is investing \$32 into the local economy

Board Discussion: None.

P. Battaglia made a motion to concur with Criteria #4; the motion was seconded by M. Gray. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Absent
T. Bender -	Absent	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

Board Concurrence: YES NO If no, state justification:

Criteria #5: The Project is included in one of the Agency's strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.

Project details: N/A

Board Discussion: None.

Criteria #6: The Project will give a reasonable estimated timeline for the completion of the proposed project.

Project details: The project is planning to begin construction in Winter 2022 and be operational by Summer of 2023.

Board Discussion: None.

M. Clattenburg made a motion to concur with Criteria #6; the motion was seconded by P. Battaglia. Roll call resulted as follows:

P. Battaglia -	Yes	C. Yunker -	Yes
T. Bender -	Absent	P. Zelif -	Yes
M. Clattenburg -	Yes	M. Gray -	Yes
C. Kemp -	Yes		

The item was approved as presented.

Board Concurrence: YES NO If no, state justification:

Customer Information

Potential Customer:	NY CDG Genesee 4, LLC	Opportunity Type:	Attraction
Project Street Address:	6464 Shepard Rd	Opportunity Product:	Property Sales & Mortgage Recording Taxes Only
City/Town/Village:	Pavilion	Type of Project:	Attraction
Project Description:	Pavilion Solar Project 4.275 MW New Jobs:		
Total Capital Investment:	\$6,438,798	Retained Jobs:	
Incentive Amount:	\$999,084	School District:	Pavilion
Benefited Amount:	\$6,438,798	PILOT Applicable:	Increase in assessed value of land and/or buildings

Project Information

Organization:	GCEDC		
Opportunity Source:	Direct/Personal Contact	Date of Public Hearing:	TBD
Initial Acceptance Date:	12/1/2022	Inducement Date:	TBD

Opportunity Summary: NY CDG Genesee 4, LLC is proposing to construct a community solar farm project on Shepard Road in the Town of Pavilion. The solar project will be located on approximately 31 of 39 acres on the property to convert the sun's energy into 4.275 MW of AC power.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$6,000/MWAC + a 2% annual escalator in payments to Genesee County, the Town of Pavilion and the Pavilion School District. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Economic Impact: The 4.275 MW solar farm will generate \$491,811 in PILOT payments and real property taxes over the 15-year term, which is far greater than the current assessed value of this ag/vacant land. This calculates to a rate of return based on the original property taxes of \$7.1 to 1.

Project Detail (Total Capital Investment)

Building Cost (Construction):	\$2,886,480	Capital Improvements:	\$0
Equipment (non-taxable):	\$1,881,000	Equipment (Taxable) / Other Project Investment:	\$1,671,318
Land Cost (Real Estate):	\$0		
Total Capital Investment:	\$6,438,798		

Estimated Benefits Provided

Sales Tax Exempt:	\$515,104
Mortgage Tax Exempt:	\$20,604
Property Tax Exempt:	\$463,376
Total Estimated Tax Incentives Provided:	\$999,084
Total Amount Finance:	\$2,060,415
Mortgage Amount:	\$2,060,415

Nov 11/15/22



Project: NY CDG Genesee 4 LLC

Capex:	\$ 6,438,798	Savings	
Sales Taxable (est.)	\$ 6,438,798	\$ 515,104	
Mortgage (est.)	\$ 2,060,415	\$ 20,604	1% of 1.25%
Property Tax	below	\$ 463,376	
Total		\$ 999,084	

	Fixed \$ per MW AC	MW AC	from Assessor Assessed Value	Assessed Value
Escalator	\$ 6,000	4.275	\$ 450,000.00	\$ 1,923,750
	2.0%			

	Increase In PILOT Payment Divided by Current Property
Economic Impact ROI	\$ 489,698
	\$ 7.29

Year of Exemption	tax rate:	\$ 1.44	\$ 9.95	\$ 20.04	\$ 31.43					
	Fixed Payment \$6000 per MW	Town of Pavilion	Genesee County	Pavilion School	Total Payments	Increase in property taxes due to loss of ag exemption	Total PILOT payments and property taxes to be received	Current property taxes on base land (including increase due to loss of ag exemption)	Total Payments to municipality upon project completion	
1	\$ 25,650	\$ 1,175	\$ 8,120	\$ 16,355	\$ 25,650	\$ 3,075	\$ 28,725	\$ 4,479	\$ 28,742	
2	\$ 26,163	\$ 1,199	\$ 8,283	\$ 16,682	\$ 26,163	\$ 3,075	\$ 29,238	\$ 4,479	\$ 29,255	
3	\$ 26,686	\$ 1,223	\$ 8,448	\$ 17,015	\$ 26,686	\$ 3,075	\$ 29,761	\$ 4,479	\$ 29,778	
4	\$ 27,220	\$ 1,247	\$ 8,617	\$ 17,356	\$ 27,220	\$ 3,075	\$ 30,295	\$ 4,479	\$ 30,312	
5	\$ 27,764	\$ 1,272	\$ 8,790	\$ 17,703	\$ 27,764	\$ 3,075	\$ 30,839	\$ 4,479	\$ 30,856	
6	\$ 28,320	\$ 1,297	\$ 8,965	\$ 18,057	\$ 28,320	\$ 3,075	\$ 31,394	\$ 4,479	\$ 31,411	
7	\$ 28,886	\$ 1,323	\$ 9,145	\$ 18,418	\$ 28,886	\$ 3,075	\$ 31,961	\$ 4,479	\$ 31,978	
8	\$ 29,464	\$ 1,350	\$ 9,328	\$ 18,786	\$ 29,464	\$ 3,075	\$ 32,539	\$ 4,479	\$ 32,556	
9	\$ 30,053	\$ 1,377	\$ 9,514	\$ 19,162	\$ 30,053	\$ 3,075	\$ 33,128	\$ 4,479	\$ 33,145	
10	\$ 30,654	\$ 1,404	\$ 9,704	\$ 19,545	\$ 30,654	\$ 3,075	\$ 33,729	\$ 4,479	\$ 33,746	
11	\$ 31,267	\$ 1,433	\$ 9,898	\$ 19,936	\$ 31,267	\$ 3,075	\$ 34,342	\$ 4,479	\$ 34,359	
12	\$ 31,893	\$ 1,461	\$ 10,096	\$ 20,335	\$ 31,893	\$ 3,075	\$ 34,967	\$ 4,479	\$ 34,984	
13	\$ 32,530	\$ 1,490	\$ 10,298	\$ 20,742	\$ 32,530	\$ 3,075	\$ 35,605	\$ 4,479	\$ 35,622	
14	\$ 33,181	\$ 1,520	\$ 10,504	\$ 21,156	\$ 33,181	\$ 3,075	\$ 36,256	\$ 4,479	\$ 36,273	
15	\$ 33,845	\$ 1,551	\$ 10,714	\$ 21,580	\$ 33,845	\$ 3,075	\$ 36,919	\$ 4,479	\$ 36,936	
Total	\$ 443,576	\$ 20,323	\$ 140,426	\$ 282,827	\$ 443,576	\$ 46,121	\$ 489,698	\$ 67,181	\$ 489,953	

* no Pilots on Ad Valerom Taxes

Total tilable acres	39.8	Current ag exemption amount (add from OARS)	\$ 97,829
Solar acres	31.03	County and School Taxes on Ag Exemption	\$ 2,934
Total Ag Exemption	\$ 97,829	Town of Pavilion (only) Taxes on Ag Exemption	\$ 141
		Total taxes due based on the elimination of Ag Exemption	\$ 3,075
		Current Property Taxes on Property	\$ 1,404

1.250% GCEDC fee	\$ 80,485
Workforce Community Benefit	\$ 25,000
Subtotal	\$ 105,485
GCEDC Legal	\$ 12,500
Total Fee	\$ 117,985

note: base land tax will remain the same and paid outside the PILOT

Property Taxes at 100% assessed value (assessor)	\$ 60,463
Term	15
Total PILOT	\$ 906,952
Savings	\$ 463,376

Net Savings	\$ 881,099
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Project Name: NY CDG Genesee 4, LLC

Board Meeting Date: December 1, 2022

STATEMENT OF COMPLIANCE OF PROJECT CRITERIA LISTED IN UNIFORM TAX EXEMPTION POLICY (UTEP)

PROJECT DESCRIPTION:

NY CDG Genesee 4, LLC is proposing to construct a community solar farm project on Shepard Road in the Town of Pavilion. The solar project will be located on approximately 31 of 39 acres on the property to convert the sun’s energy into 4.275 MW of AC power.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project’s PILOT will contribute \$6,000/MWAC + a 2% annual escalator in payments to the Genesee County, Town of Pavilion and the Pavilion School District. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Criteria #1 – The Project pledges to create and/or retain quality, good paying jobs in Genesee County.

Project details: N/A

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #2- Completion of the Project will enhance the long -term tax base and/or make a significant capital investment.

Project details: The project will enhance long term tax base with a planned new community solar farm and \$6,438,798 in capital investment. A fixed 15-year pilot with a 2% annual escalator priced at \$6,000/MWAC is proposed which is above the top end of the NYSERDA recommended range for projects located in National Grid territory in Western NY. The 4.275 MW solar farm will generate in excess of \$443,576 in PILOT payments over the 15-year term which is far greater than current assessed value of this Ag/Vacant land.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #3- The Project will contribute towards creating a “livable community” by providing a valuable product or service that is underserved in Genesee County.

Project details: The company is assisting with a \$25,000 payment for STEM oriented workforce training/county economic development programming to support STEM 2 STAMP workforce development programs/local economic development programming. Residents will be offered a 10% discount to average local market rates for solar energy.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #4: The Board will review the Agency's Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.

The 4.275 MW solar farm will generate \$491,811 in PILOT payments and real property taxes over the 15-year term, which is far greater than the current assessed value of this ag/vacant land. This calculates to a rate of return based on the original property taxes of \$7.29 to 1.

Project details: The project will generate \$7.29 of property tax-type payments for every \$1 of property taxes under the land's current use.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #5: The Project is included in one of the Agency's strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.

Project details: The company is a "downstream" developer/installer of Photovoltaic (solar) energy generation systems which is a target industry cluster / strategic industry focused on by the Agency to attract Photovoltaic (solar) manufacturing at STAMP.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #6: The Project will give a reasonable estimated timeline for the completion of the proposed project.

Project details: The project is planning to begin construction in Spring 2023 and be operational within 12 months

Board Discussion

Board Concurrence: YES NO If no, state justification:

MM
11/18/22

INITIAL RESOLUTION
(NY CDG Genesee 4 LLC Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, December 1, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. 12/2022 - _____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACCEPTING AN APPLICATION OF NY CDG GENESEE 4 LLC WITH RESPECT TO A CERTAIN PROJECT (AS DEFINED BELOW, THE "PROJECT"), (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT, AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **NY CDG GENESEE 4 LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold interest in certain real property located at 6464 Shepard Road in the Town of Pavilion, New York (the "Land", being more particularly described as a portion of tax parcel No. 15.-1-38.11, as may be subdivided); (ii) the planning, design, construction and operation of a 4.275MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) hold a public hearing, (ii) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (iii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a tax agreement (the "Tax Agreement") and related documents, (iv) take a leasehold interest in the Land, the Improvements, the Equipment and the personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (v) provide Financial Assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Facility, (b) a partial real property tax abatement structured through the Tax Agreement, and (c) a mortgage recording tax exemption as authorized by the laws of New York State (collectively, the "Financial Assistance").

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency 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; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (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 located within the State; and the Agency hereby finds that, based on the Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

Section 2. The Agency is hereby authorized to conduct a public hearing in compliance with the Act.

Section 3. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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 the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 4. These Resolutions shall take effect immediately.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zeliff	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION
(NY CDG Genesee 4 LLC Project)

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

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on December 1, 2022, with the original thereof on file at the Agency's office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this ____ day of _____, 2022.

Secretary

msm
10/21/22

Customer Information

Potential Customer: RPNY Solar 6, LLC Opportunity Type: Attraction
 Proj. St. Address: 9183 Alexander Road Opportunity Product: Property Sales & Mortgage Recording Taxes Only
 City/Town/Village: Town of Batavia/Batavia Type of Project: Attraction
 Proj. Description: RPNY Solar 6 - Pike Road 3 MW Solar New Jobs:
 Total Capital Investment: \$5,975,019 Retained Jobs:
 Incentive Amount: \$888,978 School District: Alexander
 Benefited Amount: \$5,975,019 PILOT Applicable: Increase in assessed value of land and/or other buildings (pre-project value of land and or buildings excluded)

Project Information

Organization: GCEDC
 Opportunity Source: Direct/Personal Contact Date of Public Hearing:
 Initial Acceptance Date: 11/1/2022 Inducement Date:
 Opportunity Summary: RPNY Solar 6, LLC is proposing to construct a community solar farm project on Alexander Road in the Town of Batavia.

The project will utilize 8,346 solar panels and 24 string inverters on approximately 17 of 29 acres on the property to convert the sun's energy into 3 MW of AC power. The project will utilize single axis tracking technology to allow the modules to efficiently track the sun throughout the day to maximize the efficiency of solar collection.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County and Alexander Central School District in addition to revenue in a separate host benefit agreement with the town of Batavia. The PILOT is estimated to generate \$207,521 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Economic Impact: The 3 MW solar farm will generate \$447,748 in PILOT payments, host payments, and real property taxes over the 15-year term, which is far greater than the current assessed value of this ag/vacant land. This calculates to a rate of return based on the original property taxes of \$15.47 to 1.

Project Detail (Total Capital Investment)

Building Cost (Construction):	\$1,312,617	Capital Improvements:	\$998,178 ✓
Equipment (non-taxable):	\$3,527,246	Equipment (Taxable) / Other Proj Investment:	\$50,000 ✓
Land Cost (Real Estate):	\$86,978 ✓		
Total Capital Investment:	\$5,975,019 ✓		

Estimated Benefits Provided

Sales Tax Exempt:	\$478,002	Tax Exempt Bond:	\$0
Mortgage Tax Exempt:	\$56,763	Land Sale Subsidy:	\$0
Property Tax Exempt:	\$354,214 ✓		
Total Estimated Tax Incentives Provided:	\$888,978		

Total Amount Finance: \$5,975,019
 Mortgage Amount: \$5,676,268 Equity: \$298,751

3.2

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Town of Batavia

Project: RPNY Solar 6 (9183 Alexander Rd (Pike Rd project))

Capex:	\$ 5,975,019	Savings	\$ 478,002
Sales Taxable (est.)	\$ 5,975,019		\$ 56,763
Mortgage (est.)	\$ 5,676,268	1% of 1.25%	\$ 354,214
Property Tax	below		\$ 888,978
Total			



Note: Includes Town of Batavia Host Agreement

Fixed \$ per MW AC	MW AC	from Assessor	Assessed Value
\$ 4,000	3	Assessed Value Per MW	\$ 450,000.00
Escalator	2.0%		\$ 1,350,000

Increase In PILOT Payment + Hos Divided by Current Property	
Economic Impact ROI	\$ 447,748
	\$ 15.47

Year of Exemption	tax rate:		\$ 9.18	\$ 18.58	\$ 27.74						
	Fixed Payment \$4000 per MW	Town of Batavia	Genesee County	Alexander School	Total Payments	Increase in property taxes due to loss of ag exemption	Total PILOT payments and property taxes to be received	Current property taxes on base land (including ag exemption)	Total Payments to municipality upon project completion		
1	\$ 12,000	\$ -	\$ 3,963	\$ 8,037	\$ 12,000	\$ -	\$ 12,000	\$ 1,930	\$ 13,930		
2	\$ 12,240	\$ -	\$ 4,042	\$ 8,198	\$ 12,240	\$ -	\$ 12,240	\$ 1,930	\$ 14,170		
3	\$ 12,485	\$ -	\$ 4,123	\$ 8,362	\$ 12,485	\$ -	\$ 12,485	\$ 1,930	\$ 14,415		
4	\$ 12,734	\$ -	\$ 4,205	\$ 8,529	\$ 12,734	\$ -	\$ 12,734	\$ 1,930	\$ 14,664		
5	\$ 12,989	\$ -	\$ 4,289	\$ 8,700	\$ 12,989	\$ -	\$ 12,989	\$ 1,930	\$ 14,919		
6	\$ 13,249	\$ -	\$ 4,375	\$ 8,874	\$ 13,249	\$ -	\$ 13,249	\$ 1,930	\$ 15,179		
7	\$ 13,514	\$ -	\$ 4,462	\$ 9,052	\$ 13,514	\$ -	\$ 13,514	\$ 1,930	\$ 15,444		
8	\$ 13,784	\$ -	\$ 4,552	\$ 9,233	\$ 13,784	\$ -	\$ 13,784	\$ 1,930	\$ 15,714		
9	\$ 14,060	\$ -	\$ 4,643	\$ 9,417	\$ 14,060	\$ -	\$ 14,060	\$ 1,930	\$ 15,990		
10	\$ 14,341	\$ -	\$ 4,736	\$ 9,606	\$ 14,341	\$ -	\$ 14,341	\$ 1,930	\$ 16,271		
11	\$ 14,628	\$ -	\$ 4,830	\$ 9,798	\$ 14,628	\$ -	\$ 14,628	\$ 1,930	\$ 16,558		
12	\$ 14,920	\$ -	\$ 4,927	\$ 9,994	\$ 14,920	\$ -	\$ 14,920	\$ 1,930	\$ 16,850		
13	\$ 15,219	\$ -	\$ 5,025	\$ 10,193	\$ 15,219	\$ -	\$ 15,219	\$ 1,930	\$ 17,149		
14	\$ 15,523	\$ -	\$ 5,126	\$ 10,397	\$ 15,523	\$ -	\$ 15,523	\$ 1,930	\$ 17,453		
15	\$ 15,834	\$ -	\$ 5,228	\$ 10,605	\$ 15,834	\$ -	\$ 15,834	\$ 1,930	\$ 17,764		
Total	\$ 207,521	\$ -	\$ 68,525	\$ 138,996	\$ 207,521	\$ -	\$ 207,521	\$ 28,950	\$ 236,471		

* no Pilots on Ad Valerom Taxes

Total tilable acres		The value of Ag Exemption elimination due to permanent conversion of farm land	\$ -
Solar acres		Town Tax Rate	\$ -
Total Ag Exemption	\$ -	0 Current ag exemption amount (add from OARS)	\$ -
		17 County and School Taxes on Ag Exemption	\$ -
		Town of Batavia (only) Taxes on Ag Exemption	\$ -
		Total taxes due based on the elimination of Ag Exemption	\$ -
		Current Property Taxes on Property	\$ 1,930

1.250% GCEDC fee	\$ 74,688
Workforce Community Benefit	\$ 25,000
Subtotal	\$ 99,688
GCEDC Legal	\$ 12,500
Total Fee	\$ 112,188

note: base land tax will remain the same and paid outside the PILOT

Property Taxes at 100% assessed value (assessor)	\$ 37,449
Term	15
Total PILOT	\$ 561,735
Savings	\$ 354,214

Net Savings \$ 776,790

Fixed \$ per MW AC	MW AC
\$ 2,500	3
Escalator	2.0%

Year of Exemption	Fixed Payment \$2500 per MW
1	\$ 7,500
2	\$ 7,650
3	\$ 7,803
4	\$ 7,959
5	\$ 8,118
6	\$ 8,281
7	\$ 8,446
8	\$ 8,615
9	\$ 8,787
10	\$ 8,963
11	\$ 9,142
12	\$ 9,325
13	\$ 9,512
14	\$ 9,702
15	\$ 9,896
16	\$ 10,094
17	\$ 10,296
18	\$ 10,502
19	\$ 10,712
20	\$ 10,926
21	\$ 11,145
22	\$ 11,367
23	\$ 11,595
24	\$ 11,827
25	\$ 12,063
Total	\$ 240,227

MAN
10/21/22



Project Name: RPNY Solar 6, LLC

Board Meeting Date: November 1, 2022

STATEMENT OF COMPLIANCE OF PROJECT CRITERIA LISTED IN UNIFORM TAX EXEMPTION POLICY (UTEP)

PROJECT DESCRIPTION:

RPNY Solar 6, LLC is proposing to construct a community solar farm project on Alexander Road in the Town of Batavia. The project will utilize 8,346 solar panels and 24 string inverters on approximately 17 of 29 acres on the property to convert the sun's energy into 3 MW of AC power. The project will utilize single axis tracking technology to allow the modules to efficiently track the sun throughout the day to maximize the efficiency of solar collection.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County and Alexander Central School District in addition to revenue in a separate host benefit agreement with the town of Batavia. The PILOT is estimated to generate \$207,521 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Criteria #1 – The Project pledges to create and/or retain quality, good paying jobs in Genesee County.

Project details: N/A

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #2- Completion of the Project will enhance the long -term tax base and/or make a significant capital investment.

Project details: The project will enhance long term tax base with a planned new community solar farm and \$5,975,019 in capital investment. A fixed 15-year pilot with a 2% annual escalator priced at \$4,000/MWAC is proposed which is above the top end of the NYSERDA recommended range for projects located in National Grid territory in Western NY. The 3 MW solar farm will generate in excess of \$207,521 in PILOT payments over the 15-year term which is far greater than current assessed value of this Ag/Vacant land.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #3- The Project will contribute towards creating a “livable community” by providing a valuable product or service that is underserved in Genesee County.

Project details: The company is assisting with a \$25,000 payment for STEM oriented workforce training/county economic development programming to support STEM 2 STAMP workforce development programs/local economic development programming. Residents will be offered a 10% discount to average local market rates for solar energy.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #4: The Board will review the Agency’s Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.

The 3 MW solar farm will generate \$447,748 in PILOT payments, host payments, and real property taxes over the 15-year term, which is far greater than the current assessed value of this ag/vacant land. This calculates to a rate of return based on the original property taxes of \$15.47 to 1.

Project details: For every \$1 of public benefit the company is investing \$15.47 into the local economy

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #5: The Project is included in one of the Agency’s strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.

Project details: : The company is a “downstream” developer/installer of Photovoltaic (solar) energy generation systems which is a target industry cluster / strategic industry focused on by the Agency to attract Photovoltaic (solar) manufacturing at STAMP.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #6: The Project will give a reasonable estimated timeline for the completion of the proposed project.

Project details: The project is planning to begin construction in 12/2022 and be operational within 10 months

Board Discussion

Board Concurrence: YES NO If no, state justification:

may
11/1/22

FINAL RESOLUTION
(RPNY Solar 6, LLC Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, December 1, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. 12/2022 - _____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON NOVEMBER 21, 2022, WITH RESPECT TO THE RPNY SOLAR 6, LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA (AS DEFINED BELOW); (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT AND (C) A MORTGAGE RECORDING TAX EXEMPTION AS AUTHORIZED BY THE LAWS OF THE STATE OF NEW YORK; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **RPNY SOLAR 6, LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in approximately 14 acres of real property located at 9183 Alexander Road, Town of Batavia, Genesee County, New York and all other lands where by license or easement or other agreement the Company or its designees are making improvements that benefit the Project (the "Land", being more particularly described as a portion of tax parcel No.

18.1-25.21); (ii) the planning, design, construction and operation of a 3MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a tax agreement (the "Tax Agreement") and related documents with the Company, (iii) take or title to or a leasehold interest in the Land, the Improvements, the Equipment and personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement and (c) a mortgage recording tax exemption as authorized by the laws of the State (collectively, the "Financial Assistance"); and

WHEREAS, on November 1, 2022, the Agency adopted a resolution (the "Initial Resolution") pursuant to which the Agency (i) accepted the Application of the Company, (ii) directed that a public hearing be held, and (iii) described the forms of financial assistance being contemplated by the Agency with respect to the Project; and

WHEREAS, pursuant to Section 859-a of the Act, on Monday, November 21, 2022, at 3:30 p.m., the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions at least ten (10) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to Article 18-A of the Act the Agency desires to adopt a resolution approving the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, the Project Agreement, the Lease Agreement, the Leaseback Agreement, the Tax Agreement and related documents will be negotiated and presented to the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency for approval and execution subject to adoption of the resolutions contained herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency 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; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County, New York and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project 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 located within the State; and the Agency hereby finds that, based on the Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Town of Batavia Planning Board (the "Planning Board") has conducted a review of the Project pursuant to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"). In addition to classifying the Project as a "Type I" action pursuant to SEQRA, the Planning Board issued a Negative Declaration on September 20, 2022 (the "Negative Declaration"), determining that the Project does not pose a potential significant adverse environmental impact. The Agency, having reviewed the materials presented by the Company, including, but not limited to, the Full Environmental Assessment Form and the Negative Declaration, further determines that the Project does not pose a potential significant adverse environmental impact and thus ratifies the Negative Declaration previously issued by the Planning Board pursuant to 6 N.Y.C.R.R. Part 617.7. A copy of the Negative Declaration issued by the Planning Board is attached hereto as **Exhibit B**.

Section 2. The Public Hearing held by the Agency on Monday, November 21, 2022, at 3:30 p.m., concerning the Project and the Financial Assistance was duly held in accordance with the Act, including but not limited to the giving of at least ten (10) days published notice of the Public Hearing (such notice also provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 3. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement and (c) a mortgage recording tax exemption as authorized by the laws of the State.

Section 4. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to State and local sales and use tax in an amount up to **\$5,975,019**, which result in State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$478,002**. The Agency agrees to consider any requests by the Company for an increase 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. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 6. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with

the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, reconstruct, renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Project Agreement shall expire on **December 31, 2023** (unless extended for good cause by the President/CEO of the Agency) if the Lease Agreement, the Leaseback Agreement and the Tax Agreement contemplated have not been executed and delivered.

Section 7. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Project Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the Tax Agreement; *provided, however*, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project and (ii) the terms of the Tax Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 8. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver and record the Mortgage securing an aggregate principal amount of up to a maximum principal amount not to exceed **\$5,676,268.00**, and any security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") to assist with the undertaking of the Project, the acquisition of the Facility and/or the finance or re-finance the Facility or equipment and other personal property and related transactional costs (hereinafter, with the Project Agreement, Lease Agreement, Leaseback Agreement, Tax Agreement and the Mortgage, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency shall approve, the execution thereof by the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency to constitute conclusive evidence of such approval; *provided* in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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

the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 10. These Resolutions shall take effect immediately upon adoption.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zelif	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION
(RPNY Solar 6, LLC Project)

STATE OF NEW YORK)
COUNTY OF GENESEE) *SS.:*

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on December 1, 2022, with the original thereof on file in the offices of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this ___ day of _____, 2022.

Secretary

Exhibit A

Notice Letter, Notice of Public Hearing,
Affidavit of Publication of *The Batavia Daily News*
and Minutes of Public Hearing

[Attached Hereto]



**PUBLIC HEARING NOTICE LETTER
(RPNY Solar 6, LLC – Town of Batavia)**

November 3, 2022

To: Chief Executive Officers Listed
on Schedule A attached hereto

**Re: Genesee County Industrial Development Agency d/b/a Genesee County
Economic Development Center and RPNY Solar 6, LLC**

Notice of Public Hearing

Ladies and Gentlemen:

On Monday, November 21, 2022, at 3:30 p.m., local time, at Batavia Town Hall, Board Room, 3833 West Main Street Road, Batavia, New York 14020, the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") will conduct a public hearing regarding the above-referenced project. Attached is a copy of the Notice of Public Hearing describing the project and the financial assistance contemplated by the Agency. The Notice has been submitted to *The Daily News* for publication.

The Agency will broadcast the public hearing live at <https://vimeo.com/763933393>.

You are welcome to attend such hearing at which time you will have an opportunity to review the project application and present your views, both orally and in writing, with respect to the project. We are providing this notice to you, pursuant to General Municipal Law Section 859-(a), as the chief executive officer of an affected tax jurisdiction within which the project is located.

Very truly yours,

GENESEEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEEE COUNTY ECONOMIC
DEVELOPMENT CENTER

SCHEDULE A

GENESEE COUNTY

Certified Mail No.
7020-2450-0001-6551-9339

Genesee County Manager
Old Courthouse
7 Main Street
Batavia, New York 14020

Certified Mail No.
7020-2450-0001-6551-9346

Genesee County Legislature
Attn: Chair
Old Courthouse
7 Main Street
Batavia, New York 14020

TOWN OF BATAVIA

Certified Mail No.
7018-0360-0002-1919-6850

Town of Batavia
Attn: Supervisor
3833 West Main Street Road
Batavia, New York 14020

ALEXANDER CENTRAL SCHOOL DISTRICT

Certified Mail No.
7018-0360-0002-1919-6867

Alexander Central School District
Attn: Superintendent
3314 Buffalo Street
Alexander, New York 14005

Certified Mail No.
7018-0360-0002-1919-6874

Alexander Central School District
Attn: President, Board of Education
3314 Buffalo Street
Alexander, New York 14005

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 21, 2022, at 3:30 p.m., local time, at Batavia Town Hall, Board Room, 3833 West Main Street Road, Batavia, New York 14020, in connection with the following matter:

RPNY SOLAR 6, LLC, for itself or on behalf of an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in approximately 14 acres of real property located at 9183 Alexander Road, Town of Batavia, Genesee County, New York (the "Land", being more particularly described as a portion of tax parcel No. 18.-1-25.21); (ii) the planning, design, construction and operation of a 3MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

The Agency will broadcast the public hearing live at <https://vimeo.com/763933393>.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

AFFIDAVIT OF PUBLICATION

Batavia Daily News

State of New York,

County of, Genesee,

The undersigned is the authorized designee of **Batavia Daily News**, a Daily Newspaper published in **Genesee County, New York**. I certify that the public notice, a printed copy of which is attached hereto, was printed and published in this newspaper on the following dates:

November 08, 2022

This newspaper has been designated by the County Clerk of **Genesee** County, as a newspaper of record in this county, and as such, is eligible to publish such notices.

Eliot T. Putnam

Signature

Eliot T. Putnam

Printed Name

Subscribed and sworn to before me,

This 09 day of November 2022

Mary Beth Alescio Walling

Notary Signature

MARY BETH ALESCIO WALLING
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01AL5056219
Qualified in Saratoga County
My Commission Expires March 04, 2026

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AFFIDAVIT OF PUBLICATION

Batavia Daily News

GENESEE COUNTY
NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 21, 2022, at 3:30 p.m., local time, at Batavia Town Hall, Board Room, 3833 West Main Street Road, Batavia, New York 14020, in connection with the following matter:

RPNY SOLAR 6, LLC, for itself or on behalf of an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in approximately 14 acres of real property located at 9183 Alexander Road, Town of Batavia, Genesee County, New York (the "Land", being more particularly described as a portion of tax parcel No. 18.-1-25.21); (ii) the planning, design, construction and operation of a 3MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

The Agency will broadcast the public hearing live at <https://vimeo.com/763933393>.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

Harris Beach PLLC



REPORT OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY'S PUBLIC HEARING OF RPNY SOLAR 6, LLC., HELD ON MONDAY, NOVEMBER 21, 2022 3:30 P.M. AT THE BATAVIA TOWN HALL, 3833 WEST MAIN STREET ROAD, BATAVIA, NEW YORK, GENESEE COUNTY, NEW YORK

I. ATTENDANCE

Chris Suozzi, VP of Business & Workforce Development - GCEDC
Lauren Casey, Finance Assistant – GCEDC

II. CALL TO ORDER

The public hearing of RPNY Solar 6, LLC was opened at 3:30 p.m. at Batavia Town Hall, 3833 West Main Street Road, in Batavia, New York, Genesee County, New York.

A notice of this public hearing describing the project was published in the Batavia Daily News, a copy of which is attached and is an official part of this transcript.

III. PROJECT SUMMARY

RPNY Solar 6, LLC is proposing to construct a community solar farm project on Alexander Road in the Town of Batavia. The project will utilize 8,346 solar panels and 24 string inverters on approximately 17 of 29 acres on the property to convert the sun's energy into 3 MW of AC power. The project will utilize single axis tracking technology to allow the modules to efficiently track the sun throughout the day to maximize the efficiency of solar collection.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project. The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County and Alexander Central School District in addition to revenue in a separate host benefit agreement with the town of Batavia. The PILOT is estimated to generate \$207,521 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

IV. COMMENTS

C. Suozzi began the public hearing by providing a summary of the above-outlined project. He then stated the purpose and guidelines for the public hearing. The purpose of the public hearing is to solicit comments and feedback from the public regarding the proposed incentives on the above outlined project. There were no written comments received ahead of time to be included with the written record.

There was no public comment.

V. ADJOURNMENT

As there were no other comments, the public hearing was closed at 3:40 p.m.

Exhibit B

Negative Declaration of Town of Batavia Planning Board

[Attached Hereto]

Agency Use Only [If applicable] man
11/19

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Project: Solar #6 Pike Rd
Date: 9/20/22

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency **and** the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

	<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES	
1. Impact on Land			
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1)			
<i>If "Yes", answer questions a - j. If "No", move on to Section 2.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)

NO

YES

If "Yes", answer questions a - c. If "No", move on to Section 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)

NO

YES

If "Yes", answer questions a - l. If "No", move on to Section 4.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>

1. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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4. Impact on groundwater

The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)

NO

YES

If "Yes", answer questions a - h. If "No", move on to Section 5.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

5. Impact on Flooding

The proposed action may result in development on lands subject to flooding. (See Part 1. E.2)

NO

YES

If "Yes", answer questions a - g. If "No", move on to Section 6.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>

g. Other impacts: _____

6. Impacts on Air

The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D.2.h, D.2.g)

NO YES

If "Yes", answer questions a - f. If "No", move on to Section 7.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflouorocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

7. Impact on Plants and Animals

The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.)

NO YES

If "Yes", answer questions a - j. If "No", move on to Section 8.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input checked="" type="checkbox"/>	<input type="checkbox"/>

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides. <i>No Pesticides</i>	D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

8. Impact on Agricultural Resources
The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) NO YES
If "Yes", answer questions a - h. If "No", move on to Section 9.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input checked="" type="checkbox"/>	<input type="checkbox"/>

9. Impact on Aesthetic Resources
 The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.)
If "Yes", answer questions a - g. If "No", go to Section 10.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile <input checked="" type="checkbox"/> 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

10. Impact on Historic and Archeological Resources
 The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.)
If "Yes", answer questions a - e. If "No", go to Section 11.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places.	E3e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Other impacts: <u>SHPO Report - Negative Impact</u>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>

11. Impact on Open Space and Recreation
 The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.
 (See Part 1. C.2.c, E.1.c., E.2.q.)
 If "Yes", answer questions a - e. If "No", go to Section 12.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b, E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c, E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

12. Impact on Critical Environmental Areas
 The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)
 If "Yes", answer questions a - c. If "No", go to Section 13.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

13. Impact on Transportation

The proposed action may result in a change to existing transportation systems.
(See Part 1. D.2.j)

NO

YES

If "Yes", answer questions a - f. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

14. Impact on Energy

The proposed action may cause an increase in the use of any form of energy.
(See Part 1. D.2.k)

NO

YES

If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

15. Impact on Noise, Odor, and Light

The proposed action may result in an increase in noise, odors, or outdoor lighting.
(See Part 1. D.2.m., n., and o.)

NO

YES

If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: <u>Some Noise During construction</u>		<input type="checkbox"/>	<input type="checkbox"/>

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part I.D.2.q., E.1. d. f. g. and h.)
 If "Yes", answer questions a - m. If "No", go to Section 17.

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

17. Consistency with Community Plans

The proposed action is not consistent with adopted land use plans.
(See Part 1. C.1, C.2. and C.3.)

NO

YES

If "Yes", answer questions a - h. If "No", go to Section 18.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

18. Consistency with Community Character

The proposed project is inconsistent with the existing community character.
(See Part 1. C.2, C.3, D.2, E.3)

NO

YES

If "Yes", answer questions a - g. If "No", proceed to Part 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

PRINT FULL FORM

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

After a hard and informed environmental review of the project Solar #6, Pike Road, Batavia, NY, the Town of Batavia Planning Board unanimously determined it will not have any significant adverse environmental impact on the area.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: Type 1 Unlisted

Identify portions of EAF completed for this Project: Part 1 Part 2 Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information
There were no moderate or large impacts noted on Part 2

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the
town of Batavia Planning board _____ as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

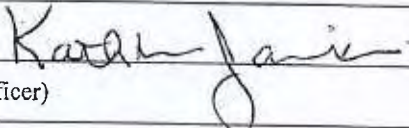
C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Solar Project #6, Pike Road, Town of Batavia, NY

Name of Lead Agency: Town of Batavia Planning Board

Name of Responsible Officer in Lead Agency: Kathleen Jasinski

Title of Responsible Officer: Chairman

Signature of Responsible Officer in Lead Agency:  Date: 9/20/22

Signature of Preparer (if different from Responsible Officer) _____ Date: _____

For Further Information:

Contact Person: Steve Mountain, Town Engineer

Address: 3833 West Main St. Rd., Batavia, NY 14020

Telephone Number: 585-343-1720 Ext. 220

E-mail: smountain@townofbatavia.com

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

PRINT FULL FORM

Handwritten initials and date: 11/2/22

Customer Information

Potential Customer: RPNY Solar 7, LLC Opportunity Type: Attraction
 Project St. Address: 9071 Alexander Road Opportunity Product: Property Sales & Mortgage Recording Taxes Only
 City/Town/Village: Town of Batavia//Batavia Type of Project: Attraction
 Project Description: RPNY Solar 7 - Alexander Road 2.5 MW Solar New Jobs:
 Total Capital Investment: \$3,552,186 Retained Jobs:
 Incentive Amount: \$624,068 School District: Batavia
 Benefited Amount: \$3,552,186 PILOT Applicable: Increase in assessed value of land and/or other buildings (pre-project value of land and/or buildings excluded)

Project Information

Organization: GCEDC
 Opportunity Source: Direct/Personal Contact Date of Public Hearing:
 Initial Acceptance Date: 11/1/2022 Inducement Date:

Opportunity Summary: RPNY Solar 7, LLC is proposing to construct a community solar farm project on Alexander Road in the Town of Batavia.

The project will utilize 6,214 solar panels and 20 string inverters on approximately 13 of 69 acres on the property to convert the sun's energy into 2.5 MW of AC power. The project will utilize single axis tracking technology to allow the modules to efficiently track the sun throughout the day to maximize the efficiency of solar collection.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County and Batavia City School District in addition to revenue in a separate host benefit agreement with the town of Batavia. The PILOT is estimated to generate \$172,934 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Economic Impact: The 2.5 MW solar farm will generate \$373,124 in PILOT payments, host payments, and real property taxes over the 15-year term, which is far greater than the current assessed value of this ag/vacant land. This calculates to a rate of return based on the original property taxes of \$28.91 to 1.

Project Detail (Total Capital Investment)

Building Cost (Construction):	\$733,039 ✓	Capital Improvements:	\$750,763 ✓
Equipment (non-taxable):	\$1,969,811 ✓	Equipment (Taxable) / Other Project Investment:	\$50,000 ✓
Land Cost (Real Estate):	\$48,573 ✓		
Total Capital Investment:	\$3,552,186		

Estimated Benefits Provided

Sales Tax Exempt:	\$284,175 ✓	Tax Exempt Bond:	\$0
Mortgage Tax Exempt:	\$33,746 ✓	Land Sale Subsidy:	\$0
Property Tax Exempt:	\$306,147 ✓		
Total Estimated Tax Incentives Provided:	\$624,068		
Total Amount Finance:	\$3,552,186		
Mortgage Amount:	\$3,374,576	Equity:	\$177,609



Project: RPNY Solar 7 (9071 Alexander Rd)

Capex:	\$ 3,552,186	Savings	\$ 284,175
Sales Taxable (est.)	\$ 3,552,186		\$ 33,746
Mortgage (est.)	\$ 3,374,576		1% of 1.25%
Property Tax	below		\$ 306,147
Total			\$ 624,068

Note: Includes Town of Batavia Host Agreement

	Fixed \$ per MW AC	MW AC	from Assessor Assessed Value Per MW	Assessed Value
Escalator	\$ 4,000	2.5	\$ 450,000.00	\$ 1,125,000
	2.0%			

Increase in PILOT Payment + Host Divided by Current Property	
Economic Impact ROI	\$ 373,124
	\$ 28.89

Year of Exemption	Fixed Payment \$4000 per MW	Town of Batavia	Genesee County	Batavia School	Total Payments	Increase in property taxes due to loss of ag exemption	Total PILOT payments and property taxes to be received	Current property taxes on base land (including ag exemption)	Total Payments to municipality upon project completion
1	\$ 10,000	\$ -	\$ 3,226	\$ 6,774	\$ 10,000	\$ -	\$ 10,000	\$ 861	\$ 10,017
2	\$ 10,200	\$ -	\$ 3,291	\$ 6,909	\$ 10,200	\$ -	\$ 10,200	\$ 861	\$ 10,217
3	\$ 10,404	\$ -	\$ 3,357	\$ 7,047	\$ 10,404	\$ -	\$ 10,404	\$ 861	\$ 10,421
4	\$ 10,612	\$ -	\$ 3,424	\$ 7,188	\$ 10,612	\$ -	\$ 10,612	\$ 861	\$ 10,629
5	\$ 10,824	\$ -	\$ 3,492	\$ 7,332	\$ 10,824	\$ -	\$ 10,824	\$ 861	\$ 10,841
6	\$ 11,041	\$ -	\$ 3,562	\$ 7,479	\$ 11,041	\$ -	\$ 11,041	\$ 861	\$ 11,058
7	\$ 11,262	\$ -	\$ 3,634	\$ 7,628	\$ 11,262	\$ -	\$ 11,262	\$ 861	\$ 11,279
8	\$ 11,487	\$ -	\$ 3,706	\$ 7,781	\$ 11,487	\$ -	\$ 11,487	\$ 861	\$ 11,504
9	\$ 11,717	\$ -	\$ 3,780	\$ 7,936	\$ 11,717	\$ -	\$ 11,717	\$ 861	\$ 11,734
10	\$ 11,951	\$ -	\$ 3,856	\$ 8,095	\$ 11,951	\$ -	\$ 11,951	\$ 861	\$ 11,968
11	\$ 12,190	\$ -	\$ 3,933	\$ 8,257	\$ 12,190	\$ -	\$ 12,190	\$ 861	\$ 12,207
12	\$ 12,434	\$ -	\$ 4,012	\$ 8,422	\$ 12,434	\$ -	\$ 12,434	\$ 861	\$ 12,451
13	\$ 12,682	\$ -	\$ 4,092	\$ 8,590	\$ 12,682	\$ -	\$ 12,682	\$ 861	\$ 12,699
14	\$ 12,936	\$ -	\$ 4,174	\$ 8,762	\$ 12,936	\$ -	\$ 12,936	\$ 861	\$ 12,953
15	\$ 13,195	\$ -	\$ 4,257	\$ 8,938	\$ 13,195	\$ -	\$ 13,195	\$ 861	\$ 13,212
Total	\$ 172,934	\$ -	\$ 55,797	\$ 117,137	\$ 172,934	\$ -	\$ 172,934	\$ 12,915	\$ 173,189

* no Pilots on Ad Valerom Taxes
Total tilable acres
Solar acres
Total Ag Exemption \$

The value of Ag Exemption elimination due to permanent conversion of farm land
Town Tax Rate \$

0 Current ag exemption amount (add from OARS)	\$ -
13 County and School Taxes on Ag Exemption	\$ -
Town of Batavia (only) Taxes on Ag Exemption	\$ -
Total taxes due based on the elimination of Ag Exemption	\$ -
Current Property Taxes on Property	\$ 861

1.250% GCEDC fee	\$ 44,402
Workforce Community Benefit	\$ 25,000
Subtotal	\$ 69,402
GCEDC Legal	\$ 7,000
Total Fee	\$ 76,402

note: base land tax will remain the same and paid outside the PILOT

Property Taxes at 100% assessed value (assessor)	\$ 31,939
Term	\$ 15
Total PILOT	\$ 479,081
Savings	\$ 306,147

Net Savings \$ 547,665

Fixed \$ per MW AC	MW AC
\$ 2,500	2.5
Escalator	2.0%

Year of Exemption	Fixed Payment \$2500 per MW
1	\$ 6,250
2	\$ 6,375
3	\$ 6,503
4	\$ 6,633
5	\$ 6,765
6	\$ 6,901
7	\$ 7,039
8	\$ 7,179
9	\$ 7,323
10	\$ 7,469
11	\$ 7,619
12	\$ 7,771
13	\$ 7,927
14	\$ 8,085
15	\$ 8,247
16	\$ 8,412
17	\$ 8,580
18	\$ 8,752
19	\$ 8,927
20	\$ 9,105
21	\$ 9,287
22	\$ 9,473
23	\$ 9,662
24	\$ 9,856
25	\$ 10,053
Total	\$ 200,189

mm
10/21/22



Project Name: RPNY Solar 7, LLC

Board Meeting Date: November 1, 2022

STATEMENT OF COMPLIANCE OF PROJECT CRITERIA LISTED IN UNIFORM TAX EXEMPTION POLICY (UTEP)

PROJECT DESCRIPTION:

RPNY Solar 7, LLC is proposing to construct a community solar farm project on Alexander Road in the Town of Batavia. The project will utilize 6,214 solar panels and 20 string inverters on approximately 13 of 69 acres on the property to convert the sun’s energy into 2.5 MW of AC power. The project will utilize single axis tracking technology to allow the modules to efficiently track the sun throughout the day to maximize the efficiency of solar collection.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project’s PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County and Batavia City School District in addition to revenue in a separate host benefit agreement with the town of Batavia. The PILOT is estimated to generate \$172,934 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Criteria #1 – The Project pledges to create and/or retain quality, good paying jobs in Genesee County.

Project details: N/A

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #2- Completion of the Project will enhance the long -term tax base and/or make a significant capital investment.

Project details: The project will enhance long term tax base with a planned new community solar farm and \$3,552,186 in capital investment. A fixed 15-year pilot with a 2% annual escalator priced at \$4,000/MWAC is proposed which is above the top end of the NYSERDA recommended range for projects located in National Grid territory in Western NY. The 2.5 MW solar farm will generate in excess of \$172,934 in PILOT payments over the 15-year term which is far greater than current assessed value of this Ag/Vacant land.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #3- The Project will contribute towards creating a “livable community” by providing a valuable product or service that is underserved in Genesee County.

Project details: The company is assisting with a \$25,000 payment for STEM oriented workforce training/county economic development programming to support STEM 2 STAMP workforce development programs/local economic development programming. Residents will be offered a 10% discount to average local market rates for solar energy.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #4: The Board will review the Agency’s Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.

The 2.5 MW solar farm will generate \$373,124 in PILOT payments, host payments, and real property taxes over the 15-year term, which is far greater than the current assessed value of this ag/vacant land. This calculates to a rate of return based on the original property taxes of \$28.91 to 1.

Project details: For every \$1 of public benefit the company is investing \$29 into the local economy

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #5: The Project is included in one of the Agency’s strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.

Project details: : The company is a “downstream” developer/installer of Photovoltaic (solar) energy generation systems which is a target industry cluster / strategic industry focused on by the Agency to attract Photovoltaic (solar) manufacturing at STAMP.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #6: The Project will give a reasonable estimated timeline for the completion of the proposed project.

Project details: The project is planning to begin construction in 12/2022 and be operational within 10 months

Board Discussion

Board Concurrence: YES NO If no, state justification:

man
11/18/22

FINAL RESOLUTION
(RPNY Solar 7, LLC Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, December 1, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. 12/2022 - _____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON NOVEMBER 21, 2022, WITH RESPECT TO THE RPNY SOLAR 7 LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA (AS DEFINED BELOW); (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT AND (C) A MORTGAGE RECORDING TAX EXEMPTION AS AUTHORIZED BY THE LAWS OF THE STATE OF NEW YORK; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **RPNY SOLAR 7, LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in approximately 8.84 acres of real property located at 9071 Alexander Road, Town of Batavia, Genesee County, New York (the "Land", being more particularly described as a portion of tax parcel No. 18.-1-20.21); (ii) the planning, design, construction and operation of a 2.5MWac PV solar electrical generation system, including panel foundations,

inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a tax agreement (the "Tax Agreement") and related documents with the Company, (iii) take or title to or a leasehold interest in the Land, the Improvements, the Equipment and personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement and (c) a mortgage recording tax exemption as authorized by the laws of the State (collectively, the "Financial Assistance"); and

WHEREAS, on November 1, 2022, the Agency adopted a resolution (the "Initial Resolution") pursuant to which the Agency (i) accepted the Application of the Company, (ii) directed that a public hearing be held, and (iii) described the forms of financial assistance being contemplated by the Agency with respect to the Project; and

WHEREAS, pursuant to Section 859-a of the Act, on Monday, November 21, 2022, at 4:00 p.m., the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions at least ten (10) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to Article 18-A of the Act the Agency desires to adopt a resolution approving the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, the Project Agreement, the Lease Agreement, the Leaseback Agreement, the Tax Agreement and related documents will be negotiated and presented to the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency for approval and execution subject to adoption of the resolutions contained herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency 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; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County, New York and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project 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 located within the State; and the Agency hereby finds that, based on the Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Town of Batavia Planning Board (the "Planning Board") has conducted a review of the Project pursuant to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"). In addition to classifying the Project as a "Type I" action pursuant to SEQRA, the Planning Board issued a Negative Declaration on September 20, 2022 (the "Negative Declaration"), determining that the Project does not pose a potential significant adverse environmental impact. The Agency, having reviewed the materials presented by the Company, including, but not limited to, the Full Environmental Assessment Form and the Negative Declaration, further determines that the Project does not pose a potential significant adverse environmental impact and thus ratifies the Negative Declaration previously issued by the Planning Board pursuant to 6 N.Y.C.R.R. Part 617.7. A copy of the Negative Declaration issued by the Planning Board is attached hereto as **Exhibit B.**

Section 2. The Public Hearing held by the Agency on Monday, November 21, 2022, at 4:00 p.m., concerning the Project and the Financial Assistance was duly held in accordance with the Act, including but not limited to the giving of at least ten (10) days published notice of the Public Hearing (such notice also provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 3. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement and (c) a mortgage recording tax exemption as authorized by the laws of the State.

Section 4. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to State and local sales and use tax in an amount up to **\$3,552,186**, which result in State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$284,175**. The Agency agrees to consider any requests by the Company for an increase 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. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 6. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with

the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, reconstruct, renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Project Agreement shall expire on **December 31, 2023** (unless extended for good cause by the President/CEO of the Agency) if the Lease Agreement, the Leaseback Agreement and the Tax Agreement contemplated have not been executed and delivered.

Section 7. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Project Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the Tax Agreement; *provided, however*, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project and (ii) the terms of the Tax Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 8. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver and record the Mortgage securing an aggregate principal amount of up to a maximum principal amount not to exceed **\$3,374,576.00**, and any security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") to assist with the undertaking of the Project, the acquisition of the Facility and/or the finance or re-finance the Facility or equipment and other personal property and related transactional costs (hereinafter, with the Project Agreement, Lease Agreement, Leaseback Agreement, Tax Agreement and the Mortgage, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency shall approve, the execution thereof by the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency to constitute conclusive evidence of such approval; *provided* in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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

the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 10. These Resolutions shall take effect immediately upon adoption.

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

	<i>Yea</i>		<i>Nay</i>		<i>Absent</i>		<i>Abstain</i>	
Peter Zelif	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION

(RPNY Solar 7, LLC Project)

STATE OF NEW YORK)
COUNTY OF GENESEE) *SS.:*

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on December 1, 2022, with the original thereof on file in the offices of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this ___ day of _____, 2022.

Secretary

Exhibit A

Notice Letter, Notice of Public Hearing,
Affidavit of Publication of *The Batavia Daily News*
and Minutes of Public Hearing

[Attached Hereto]



**PUBLIC HEARING NOTICE LETTER
(RPNY Solar 7, LLC – Town of Batavia)**

November 3, 2022

To: Chief Executive Officers Listed
on Schedule A attached hereto

**Re: Genesee County Industrial Development Agency d/b/a Genesee County
Economic Development Center and RPNY Solar 7, LLC**

Notice of Public Hearing

Ladies and Gentlemen:

On Monday, November 21, 2022, at 4:00 p.m., local time, at Batavia Town Hall, Board Room, 3833 West Main Street Road, Batavia, New York 14020 the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") will conduct a public hearing regarding the above-referenced project. Attached is a copy of the Notice of Public Hearing describing the project and the financial assistance contemplated by the Agency. The Notice has been submitted to *The Daily News* for publication.

The Agency will broadcast the public hearing live at <https://vimeo.com/763933663>.

You are welcome to attend such hearing at which time you will have an opportunity to review the project application and present your views, both orally and in writing, with respect to the project. We are providing this notice to you, pursuant to General Municipal Law Section 859-(a), as the chief executive officer of an affected tax jurisdiction within which the project is located.

Very truly yours,

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

SCHEDULE A

GENESEE COUNTY

Certified Mail No.

7020-2450-0001-6551-9339

Genesee County Manager
Old Courthouse
7 Main Street
Batavia, New York 14020

Certified Mail No.

7020-2450-0001-6551-9346

Genesee County Legislature
Attn: Chair
Old Courthouse
7 Main Street
Batavia, New York 14020

TOWN OF BATAVIA

Certified Mail No.

7018-0360-0002-1919-6850

Town of Batavia
Attn: Supervisor
3833 West Main Street Road
Batavia, New York 14020

BATAVIA CITY SCHOOL DISTRICT

Certified Mail No.

7018-0360-0002-1919-6898

Batavia City School District
Attn: Superintendent
260 State Street
Batavia, New York 14020

Certified Mail No.

7018-0360-0002-1919-6904

Batavia City School District
Attn: President, Board of Education
260 State Street
Batavia, New York 14020

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 21, 2022, at 4:00 p.m., local time, at Batavia Town Hall, Board Room, 3833 West Main Street Road, Batavia, New York 14020, in connection with the following matter:

RPNY SOLAR 7, LLC, for itself or on behalf of an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in approximately 8.84 acres of real property located at 9071 Alexander Road, Town of Batavia, Genesee County, New York (the "Land", being more particularly described as a portion of tax parcel No. 18.-1-20.21); (ii) the planning, design, construction and operation of a 2.5MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

The Agency will broadcast the public hearing live at <https://vimeo.com/763933663>.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

AFFIDAVIT OF PUBLICATION

Batavia Daily News

State of New York,

County of, Genesee,

The undersigned is the authorized designee of **Batavia Daily News**, a **Daily** Newspaper published in **Genesee County, New York**. I certify that the public notice, a printed copy of which is attached hereto, was printed and published in this newspaper on the following dates:

November 08, 2022

This newspaper has been designated by the County Clerk of **Genesee** County, as a newspaper of record in this county, and as such, is eligible to publish such notices.



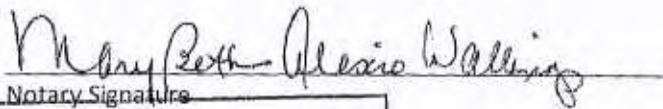
Signature

Eliot T. Putnam

Printed Name

Subscribed and sworn to before me,

This 09 day of November 2022



Notary Signature

MARY BETH ALESCIO WALLING
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01AL5056219
Qualified in Saratoga County
My Commission Expires March 04, 2026

Notary Public Stamp

AFFIDAVIT OF PUBLICATION

Batavia Daily News

GENESEE COUNTY
NOTICE OF PUBLIC HEARING

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The Agency will broadcast the public hearing live at <https://vimeo.com/763933663>.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

REPORT OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY'S PUBLIC HEARING OF RPNY SOLAR 7, LLC., HELD ON MONDAY, NOVEMBER 21, 2022 4:00 P.M. AT THE BATAVIA TOWN HALL, 3833 WEST MAIN STREET ROAD, BATAVIA, NEW YORK, GENESEE COUNTY, NEW YORK

I. ATTENDANCE

Chris Suozzi, VP of Business & Workforce Development - GCEDC
Lauren Casey, Finance Assistant – GCEDC

II. CALL TO ORDER

The public hearing of RPNY Solar 7, LLC was opened at 4:00 p.m. at Batavia Town Hall, 3833 West Main Street Road, in Batavia, New York, Genesee County, New York.

A notice of this public hearing describing the project was published in the Batavia Daily News, a copy of which is attached and is an official part of this transcript.

III. PROJECT SUMMARY

RPNY Solar 7, LLC is proposing to construct a community solar farm project on Alexander Road in the Town of Batavia. The project will utilize 6,214 solar panels and 20 string inverters on approximately 13 of 69 acres on the property to convert the sun's energy into 2.5 MW of AC power. The project will utilize single axis tracking technology to allow the modules to efficiently track the sun throughout the day to maximize the efficiency of solar collection.

The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project. The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County and Batavia City School District in addition to revenue in a separate host benefit agreement with the town of Batavia. The PILOT is estimated to generate \$172,934 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

IV. COMMENTS

C. Suozzi began the public hearing by providing a summary of the above-outlined project. He then stated the purpose and guidelines for the public hearing. The purpose of the public hearing is to solicit comments and feedback from the public regarding the proposed incentives on the above outlined project. There were no written comments received ahead of time to be included with the written record.

There was no public comment.

V. ADJOURNMENT

As there were no other comments, the public hearing was closed at 4:10 p.m.

Exhibit B

Negative Declaration of Town of Batavia Planning Board

[Attached Hereto]

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Agency Use Only [If applicable]

Project:	RPNY Solar 7, Alexander Road Solar
Date:	8/20/22

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

If the lead agency is a state agency and the action is in any Coastal Area, complete the Coastal Assessment Form before proceeding with this assessment.

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer "Yes" to a numbered question, please complete all the questions that follow in that section.
- If you answer "No" to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box "Moderate to large impact may occur."
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the "whole action".
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) <i>If "Yes", answer questions a - j. If "No", move on to Section 2.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

3.3

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2. Impact on Geological Features

The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g)

NO

YES

If "Yes", answer questions a - c. If "No", move on to Section 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

3. Impacts on Surface Water

The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h)

NO

YES

If "Yes", answer questions a - l. If "No", move on to Section 4.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>
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4. Impact on groundwater
 The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer.
 (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t)
If "Yes", answer questions a - h. If "No", move on to Section 5.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	<input type="checkbox"/>	<input type="checkbox"/>
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	<input type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	<input type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

5. Impact on Flooding
 The proposed action may result in development on lands subject to flooding.
 (See Part 1. E.2)
If "Yes", answer questions a - g. If "No", move on to Section 6.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in development within a 100 year floodplain.	E2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in development within a 500 year floodplain.	E2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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g. Other impacts: _____	<input type="checkbox"/>	<input type="checkbox"/>
-------------------------	--------------------------	--------------------------

6. Impacts on Air

The proposed action may include a state regulated air emission source. (See Part 1. D.2.f., D.2.h, D.2.g)

NO YES

If "Yes", answer questions a - f. If "No", move on to Section 7.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochlorofluorocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may reach 50% of any of the thresholds in "a" through "c", above.	D2g	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

7. Impact on Plants and Animals

The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.)

NO YES

If "Yes", answer questions a - j. If "No", move on to Section 8.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____	E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

8. Impact on Agricultural Resources			
The proposed action may impact agricultural resources. (See Part I. E.3.a. and b.)		<input type="checkbox"/> NO	<input checked="" type="checkbox"/> YES
<i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

9. Impact on Aesthetic Resources
 The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.)
 If "Yes", answer questions a - g. If "No", go to Section 10.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	<input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

10. Impact on Historic and Archeological Resources
 The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.)
 If "Yes", answer questions a - e. If "No", go to Section 11.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on the National or State Register of Historical Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places.	E3e	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>
e. If any of the above (a-d) are answered "Moderate to large impact may occur", continue with the following questions to help support conclusions in Part 3:			
i. The proposed action may result in the destruction or alteration of all or part of the site or property.	E3e, E3g, E3f	<input type="checkbox"/>	<input type="checkbox"/>
ii. The proposed action may result in the alteration of the property's setting or integrity.	E3e, E3f, E3g, E1a, E1b	<input type="checkbox"/>	<input type="checkbox"/>
iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3f, E3g, E3h, C2, C3	<input type="checkbox"/>	<input type="checkbox"/>

11. Impact on Open Space and Recreation
 The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan.
 (See Part 1. C.2.c, E.1.c., E.2.q.)
If "Yes", answer questions a - e. If "No", go to Section 12.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or "ecosystem services", provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b, E2h, E2m, E2o, E2n, E2p	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c, E1c, E2q	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	<input type="checkbox"/>	<input type="checkbox"/>
e. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

12. Impact on Critical Environmental Areas
 The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d)
If "Yes", answer questions a - c. If "No", go to Section 13.

NO YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	<input type="checkbox"/>	<input type="checkbox"/>
c. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

13. Impact on Transportation
 The proposed action may result in a change to existing transportation systems. NO YES
 (See Part 1. D.2.j)
 If "Yes", answer questions a - f. If "No", go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action will degrade existing transit access.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	<input type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

14. Impact on Energy
 The proposed action may cause an increase in the use of any form of energy. NO YES
 (See Part 1. D.2.k)
 If "Yes", answer questions a - e. If "No", go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	<input type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	<input type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	<input type="checkbox"/>	<input type="checkbox"/>
e. Other Impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

15. Impact on Noise, Odor, and Light
 The proposed action may result in an increase in noise, odors, or outdoor lighting. NO YES
 (See Part 1. D.2.m., n., and o.)
 If "Yes", answer questions a - f. If "No", go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may result in routine odors for more than one hour per day.	D2o	<input checked="" type="checkbox"/>	<input type="checkbox"/>

d. The proposed action may result in light shining onto adjoining properties.	D2n	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Other impacts: <u>Small Impact during construction</u>		<input type="checkbox"/>	<input type="checkbox"/>

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part I.D.2.q., E.1. d. f. g. and h.)
 If "Yes", answer questions a - m. If "No", go to Section 17.

NO

YES

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	<input type="checkbox"/>	<input type="checkbox"/>
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	<input checked="" type="checkbox"/>	<input type="checkbox"/>
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	<input checked="" type="checkbox"/>	<input type="checkbox"/>
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	<input checked="" type="checkbox"/>	<input type="checkbox"/>
m. Other impacts: _____		<input type="checkbox"/>	<input type="checkbox"/>

17. Consistency with Community Plans

The proposed action is not consistent with adopted land use plans.
(See Part 1. C.1, C.2. and C.3.)

NO

YES

If "Yes", answer questions a - h. If "No", go to Section 18.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action's land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
h. Other: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

18. Consistency with Community Character

The proposed project is inconsistent with the existing community character.
(See Part 1. C.2, C.3, D.2, E.3)

NO

YES

If "Yes", answer questions a - g. If "No", proceed to Part 3.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	<input checked="" type="checkbox"/>	<input type="checkbox"/>
g. Other impacts: _____ _____		<input type="checkbox"/>	<input type="checkbox"/>

PRINT FULL FORM

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

After a hard and informed environmental review of the project Solar #7, Alexander Road, Batavia, NY, the Town of Batavia Planning Board unanimously determined it will not have any significant adverse environmental impact on the area.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: Type 1 Unlisted

Identify portions of EAF completed for this Project: Part 1 Part 2 Part 3

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Upon review of the information recorded on this EAF, as noted, plus this additional support information
There were no moderate or large impacts noted on Part 2

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the
town of Batavia Planning Board _____ as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.7(d)).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: Solar Project #7, Alexander Road, Town of Batavia, NY

Name of Lead Agency: Town of Batavia Planning Board

Name of Responsible Officer in Lead Agency: Kathleen Jasinski

Title of Responsible Officer: Chairman

Signature of Responsible Officer in Lead Agency:  Date: 9/20/22

Signature of Preparer (if different from Responsible Officer) _____ Date: _____

For Further Information:

Contact Person: Steve Mountain, Town Engineer

Address: 3833 West Main St. Rd., Batavia, NY 14020

Telephone Number: 585-343-1720 Ext. 220

E-mail: smountain@townofbatavia.com

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)
Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

PRINT FULL FORM

*May
11/22*

Customer Information

Potential Customer: AES Rt 5 Storage, LLC Opportunity Type: Attraction
 Project St. Address: 7054 West Main Road Opportunity Product: Property Sales & Mortgage Recording Taxes Only
 City/Town/Village: //LeRoy Type of Project: Attraction
 Project Description: AES Rt 5 Storage - Le Roy 5 MW Solar New Jobs:
 Total Capital Investment: \$11,017,119 Retained Jobs:
 Incentive Amount: \$1,804,442 School District: LeRoy
 Benefited Amount: \$11,017,119 PILOT Applicable: Increase in assessed value of land and/or other buildings (pre-project value of land and or buildings excluded)

Project Information

Organization: GCEDC
 Opportunity Source: Direct/Personal Contact Date of Public Hearing:
 Initial Acceptance Date: 11/1/2022 Inducement Date:
 Opportunity Summary: AES Rt 5 Storage,, LLC is proposing to construct a community solar farm project on West Main Road in the Town of Le Roy.
 The project will utilize ground-mounted solar panels to convert the sun's energy into 5 MW of AC power.
 The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.
 The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County, Town of Le Roy, and Le Roy Central School District. The PILOT is estimated to generate \$345,868 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.
 The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.
 Economic Impact: The 5 MW solar farm will generate \$597,180 in PILOT payments, host payments and real property taxes over the 15-year term, which is far greater than the current assessed value of this ag/vacant land. This calculates to a rate of return based on the original property taxes of \$6.43 to 1.

Project Detail (Total Capital Investment)

Building Cost (Construction): \$0 Capital Improvements: \$3,752,170 ✓
 Equipment (non-taxable): \$4,337,508 ✓ Equipment (Taxable) / Other Proj Investment: \$2,927,441 ✓
 Land Cost (Real Estate): \$0
 Total Capital Investment: \$11,017,119 ✓

Estimated Benefits Provided

Sales Tax Exempt: \$881,370 Tax Exempt Bond: \$0
 Mortgage Tax Exempt: \$82,628 ✓ Land Sale Subsidy: \$0
 Property Tax Exempt: \$840,444 ✓
 Total Estimated Tax Incentives Provided: \$1,804,442
 Total Amount Finance: \$11,017,119
 Mortgage Amount: \$8,262,839 Equity: \$2,754,280



Project: AES RT5 Storage, LLC

Capex:	\$ 11,017,119	Savings	\$ 881,370
Sales Taxable (est.):	\$ 11,017,119		\$ 82,628 1% of 1.25%
Mortgage (est.):	\$ 8,262,839		\$ 840,444
Property Tax	below		\$ 1,804,442
Total			\$ 1,804,442

	Fixed \$ per MW AC	MW AC	from Assessor Assessed Value Per MW	Assessed Value
Escalator	\$ 4,000	5.0	\$ 450,000.00	\$ 2,250,000
		2.0%		

Note: Includes Town of Leroy Host Agreement

Economic Impact ROI	\$ 597,180
	\$ 6.43

Year of Exemption	tax rate	1.09	9.96	24.10	35.15					
	Fixed Payment \$4000 per MW	Town of Leroy	Genesee County	Leroy School	Total Payments	Increase in property taxes due to loss of ag exemption	Total PILOT payments and property taxes to be received	Current property taxes on base land (including ag exemption)	Total Payments to municipality upon project completion	
1	\$ 20,000	\$ 620	\$ 5,667	\$ 13,713	\$ 20,000	\$ 5,225	\$ 25,225	\$ 6,187	\$ 31,412	
2	\$ 20,400	\$ 633	\$ 5,780	\$ 13,987	\$ 20,400	\$ 5,225	\$ 25,625	\$ 6,187	\$ 31,812	
3	\$ 20,808	\$ 645	\$ 5,896	\$ 14,267	\$ 20,808	\$ 5,225	\$ 26,033	\$ 6,187	\$ 32,220	
4	\$ 21,224	\$ 658	\$ 6,014	\$ 14,552	\$ 21,224	\$ 5,225	\$ 26,449	\$ 6,187	\$ 32,636	
5	\$ 21,649	\$ 671	\$ 6,134	\$ 14,843	\$ 21,649	\$ 5,225	\$ 26,874	\$ 6,187	\$ 33,061	
6	\$ 22,082	\$ 685	\$ 6,257	\$ 15,140	\$ 22,082	\$ 5,225	\$ 27,307	\$ 6,187	\$ 33,494	
7	\$ 22,523	\$ 698	\$ 6,382	\$ 15,443	\$ 22,523	\$ 5,225	\$ 27,748	\$ 6,187	\$ 33,936	
8	\$ 22,974	\$ 712	\$ 6,510	\$ 15,752	\$ 22,974	\$ 5,225	\$ 28,199	\$ 6,187	\$ 34,386	
9	\$ 23,433	\$ 727	\$ 6,640	\$ 16,067	\$ 23,433	\$ 5,225	\$ 28,658	\$ 6,187	\$ 34,845	
10	\$ 23,902	\$ 741	\$ 6,773	\$ 16,388	\$ 23,902	\$ 5,225	\$ 29,127	\$ 6,187	\$ 35,314	
11	\$ 24,380	\$ 756	\$ 6,908	\$ 16,716	\$ 24,380	\$ 5,225	\$ 29,605	\$ 6,187	\$ 35,792	
12	\$ 24,867	\$ 771	\$ 7,046	\$ 17,050	\$ 24,867	\$ 5,225	\$ 30,093	\$ 6,187	\$ 36,280	
13	\$ 25,365	\$ 787	\$ 7,187	\$ 17,391	\$ 25,365	\$ 5,225	\$ 30,590	\$ 6,187	\$ 36,777	
14	\$ 25,872	\$ 802	\$ 7,331	\$ 17,739	\$ 25,872	\$ 5,225	\$ 31,097	\$ 6,187	\$ 37,284	
15	\$ 26,390	\$ 818	\$ 7,478	\$ 18,094	\$ 26,390	\$ 5,225	\$ 31,615	\$ 6,187	\$ 37,802	
Total	\$ 345,868	\$ 10,725	\$ 98,004	\$ 237,139	\$ 345,868	\$ 78,377	\$ 424,246	\$ 92,807	\$ 517,053	

* no Pilots on Ad Valerom Taxes

Total tilable acres	66	Current ag exemption amount (add from OARS)	\$ 144,182
Solar acres	38.7	County and School Taxes on Ag Exemption	\$ 5,068
Total Ag Exemption	\$ 144.182	Town of Batavia (only) Taxes on Ag Exemption	\$ 157
		Total taxes due based on the elimination of Ag Exemption	\$ 5,225
		Current Property Taxes on Property	\$ 962

1.250% GCEDC fee	\$ 137,714
Workforce Community Benefit	\$ 25,000
Subtotal	\$ 162,714
GCEDC Legal	\$ 16,500
Total Fee	\$ 179,214

note: base land tax will remain the same and paid outside the PILOT

Property Taxes at 100% assessed value (assessor)	\$ 79,088
Term	\$ 15
Total PILOT	\$ 1,186,313
Savings	\$ 840,444

Net Savings \$ 1,625,228

Fixed \$ per MW AC	\$ 2,000	MW AC	5.0
			2.0%

Town of Leroy	Escalator
Year of Exemption	Fixed Payment \$2000 per MW
1	\$ 10,000
2	\$ 10,200
3	\$ 10,404
4	\$ 10,612
5	\$ 10,824
6	\$ 11,041
7	\$ 11,262
8	\$ 11,487
9	\$ 11,717
10	\$ 11,951
11	\$ 12,190
12	\$ 12,434
13	\$ 12,682
14	\$ 12,936
15	\$ 13,195
Total	\$ 172,934



Project Name: AES Rt 5 Storage, LLC

Board Meeting Date: November 1, 2022

MS
10/24/22

STATEMENT OF COMPLIANCE OF PROJECT CRITERIA LISTED IN UNIFORM TAX EXEMPTION POLICY (UTEP)

PROJECT DESCRIPTION:

AES Rt 5 Storage, LLC is proposing to construct a community solar farm project on West Main Road in the Town of Le Roy. The project will utilize ground-mounted solar panels to convert the sun's energy into 5 MW of AC power. The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County, Town of Le Roy, and Le Roy Central School District. The PILOT is estimated to generate \$345,868 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

Criteria #1 – The Project pledges to create and/or retain quality, good paying jobs in Genesee County.

Project details: N/A

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #2- Completion of the Project will enhance the long -term tax base and/or make a significant capital investment.

Project details: The project will enhance long term tax base with a planned new community solar farm and \$11,017,119 in capital investment. A fixed 15-year pilot with a 2% annual escalator priced at \$4,000/MWAC is proposed which is above the top end of the NYSERDA recommended range for projects located in National Grid territory in Western NY. The 5 MW solar farm will generate \$345,868 in PILOT payments over the 15-year term which is far greater than current assessed value of this Ag/Vacant land.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #3- The Project will contribute towards creating a "livable community" by providing a valuable product or service that is underserved in Genesee County.

Project details: The company is assisting with a \$25,000 payment for STEM oriented workforce training/county economic development programming to support STEM 2 STAMP workforce development programs/local economic development programming. Residents will be offered a 10% discount to average local market rates for solar energy.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #4: The Board will review the Agency's Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.

The 5 MW solar farm will generate \$597,180 in PILOT payments, host payments and real property taxes over the 15-year term, which is far greater than the current assessed value of this ag/vacant land. This calculates to a rate of return based on the original property taxes of \$6.43 to 1.

Project details: For every \$1 of public benefit the company is investing \$6.43 into the local economy

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #5: The Project is included in one of the Agency's strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.

Project details: : The company is a "downstream" developer/installer of Photovoltaic (solar) energy generation systems which is a target industry cluster / strategic industry focused on by the Agency to attract Photovoltaic (solar) manufacturing at STAMP.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #6: The Project will give a reasonable estimated timeline for the completion of the proposed project.

Project details: The project is planning to begin construction in early 2023 and be operational within 12 months

Board Discussion

Board Concurrence: YES NO If no, state justification:

Handwritten initials and date: 11/18/22

FINAL RESOLUTION
(AES RT 5 Storage, LLC Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, December 1, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. 12/2022 - _____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON NOVEMBER 22, 2022, WITH RESPECT TO THE AES RT 5 STORAGE LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA (AS DEFINED BELOW); (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT AND (C) A MORTGAGE RECORDING TAX EXEMPTION AS AUTHORIZED BY THE LAWS OF THE STATE OF NEW YORK; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **AES RT 5 STORAGE, LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain real property located at West Main Road, Town of LeRoy, Genesee County, New York (the "Land", being more particularly described as a portion of tax parcel No. 29.-1-13.21); (ii) the planning, design, construction and operation of a 5MWac PV solar electrical generation system, including panel foundations,

3.4

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inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a tax agreement (the "Tax Agreement") and related documents with the Company, (iii) take or title to or a leasehold interest in the Land, the Improvements, the Equipment and personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement and (c) a mortgage recording tax exemption as authorized by the laws of the State (collectively, the "Financial Assistance"); and

WHEREAS, on November 1, 2022, the Agency adopted a resolution (the "Initial Resolution") pursuant to which the Agency (i) accepted the Application of the Company, (ii) directed that a public hearing be held, and (iii) described the forms of financial assistance being contemplated by the Agency with respect to the Project; and

WHEREAS, pursuant to Section 859-a of the Act, on Monday, November 22, 2022, at 3:30 p.m., the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions at least ten (10) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, pursuant to Article 18-A of the Act the Agency desires to adopt a resolution approving the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, the Project Agreement, the Lease Agreement, the Leaseback Agreement, the Tax Agreement and related documents will be negotiated and presented to the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency for approval and execution subject to adoption of the resolutions contained herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency 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; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County, New York and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project 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 located within the State; and the Agency hereby finds that, based on the Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Town of LeRoy Planning Board (the "Planning Board") has conducted a review of the Project pursuant to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"). In addition to classifying the Project as a "Type I" action pursuant to SEQRA, the Planning Board issued a Negative Declaration on April 28, 2022 (the "Negative Declaration"), determining that the Project does not pose a potential significant adverse environmental impact. The Agency, having reviewed the materials presented by the Company, including, but not limited to, the Full Environmental Assessment Form and the Negative Declaration, further determines that the Project does not pose a potential significant adverse environmental impact and thus ratifies the Negative Declaration previously issued by the Planning Board pursuant to 6 N.Y.C.R.R. Part 617.7. A copy of the Negative Declaration issued by the Planning Board is attached hereto as **Exhibit B**.

Section 2. The Public Hearing held by the Agency on Monday, November 22, 2022, at 3:30 p.m., concerning the Project and the Financial Assistance was duly held in accordance

with the Act, including but not limited to the giving of at least ten (10) days published notice of the Public Hearing (such notice also provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 3. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement and (c) a mortgage recording tax exemption as authorized by the laws of the State.

Section 4. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to State and local sales and use tax in an amount up to **\$11,017,119**, which result in State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$881,370**. The Agency agrees to consider any requests by the Company for an increase 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. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 6. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, reconstruct, renovate and equip the

Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Project Agreement shall expire on **December 31, 2023** (unless extended for good cause by the President/CEO of the Agency) if the Lease Agreement, the Leaseback Agreement and the Tax Agreement contemplated have not been executed and delivered.

Section 7. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Project Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the Tax Agreement; *provided, however*, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project and (ii) the terms of the Tax Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 8. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver and record the Mortgage securing an aggregate principal amount of up to a maximum principal amount not to exceed **\$8,262,839.00**, and any security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") to assist with the undertaking of the Project, the acquisition of the Facility and/or the finance or re-finance the Facility or equipment and other personal property and related transactional costs (hereinafter, with the Project Agreement, Lease Agreement, Leaseback Agreement, Tax Agreement and the Mortgage, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency shall approve, the execution thereof by the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 9. The Agency is hereby authorized to provide the Company with an exemption from mortgage recording taxes as permitted by New York State law in an amount not to exceed Eighty-Two Thousand Six Hundred Twenty-Eight and 00/100 Dollars (**\$82,628.00**).

Section 10. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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 the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 11. These Resolutions shall take effect immediately upon adoption.

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

	<i>Yea</i>		<i>Nay</i>		<i>Absent</i>		<i>Abstain</i>	
Peter Zeliff	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION

(AES RT 5 Storage, LLC Project)

STATE OF NEW YORK)
COUNTY OF GENESEE) SS.:

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on December 1, 2022, with the original thereof on file in the offices of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this ___ day of _____, 2022.

Secretary

Exhibit A

Notice Letter, Notice of Public Hearing,
Affidavit of Publication of *The Batavia Daily News*
and Minutes of Public Hearing

[Attached Hereto]



**PUBLIC HEARING NOTICE LETTER
(AES RT 5 Storage, LLC – Town of LeRoy)**

November 3, 2022

To: Chief Executive Officers Listed
on Schedule A attached hereto

**Re: Genesee County Industrial Development Agency d/b/a Genesee County
Economic Development Center and AES RT 5 Storage, LLC**

Notice of Public Hearing

Ladies and Gentlemen:

On Tuesday, November 22, 2022, at 3:30 p.m., local time, at LeRoy Town Hall at 48 Main Street, LeRoy, New York 14482 the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") will conduct a public hearing regarding the above-referenced project. Attached is a copy of the Notice of Public Hearing describing the project and the financial assistance contemplated by the Agency. The Notice has been submitted to *The Daily News* for publication.

You are welcome to attend such hearing at which time you will have an opportunity to review the project application and present your views, both orally and in writing, with respect to the project. We are providing this notice to you, pursuant to General Municipal Law Section 859-(a), as the chief executive officer of an affected tax jurisdiction within which the project is located.

Very truly yours,

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

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SCHEDULE A

GENESEE COUNTY

Certified Mail No.

7020-2450-0001-6551-9353

Genesee County Manager
Old Courthouse
7 Main Street
Batavia, New York 14020

Certified Mail No.

7020-2450-0001-6551-9360

Genesee County Legislature
Attn: Chair
Old Courthouse
7 Main Street
Batavia, New York 14020

TOWN OF LEROY

Certified Mail No.

7020-2450-0001-6551-9308

Town of LeRoy
Attn: Supervisor
48 Main Street
LeRoy, New York 14482

LEROY CENTRAL SCHOOL DISTRICT

Certified Mail No.

7020-2450-0001-6551-9315

LeRoy Central School District
Attn: Superintendent
2-6 Trigon Park
LeRoy, New York 14482

Certified Mail No.

7020-2450-0001-6551-9322

LeRoy Central School District
Attn: President, Board of Education
2-6 Trigon Park
LeRoy, New York 14482

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Tuesday, November 22, 2022, at 3:30 p.m., local time, at LeRoy Town Hall at 48 Main Street, LeRoy, New York 14482, in connection with the following matter:

AES RT 5 STORAGE, LLC, for itself or on behalf of an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain real property located at West Main Road, Town of LeRoy, Genesee County, New York (the "Land", being more particularly described as a portion of tax parcel No. 29.-1-13.21); (ii) the planning, design, construction and operation of a 5MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

The Agency will broadcast the public hearing live at <https://vimeo.com/763933882>.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

AFFIDAVIT OF PUBLICATION

Batavia Daily News

State of New York,

County of, Genesee,

The undersigned is the authorized designee of **Batavia Daily News**, a **Daily Newspaper** published in **Genesee County, New York**. I certify that the public notice, a printed copy of which is attached hereto, was printed and published in this newspaper on the following dates:

November 08, 2022

This newspaper has been designated by the County Clerk of **Genesee County**, as a newspaper of record in this county, and as such, is eligible to publish such notices.

Eliot T. Putnam

Signature

Eliot T. Putnam

Printed Name

Subscribed and sworn to before me,

This 09 day of November 2022

Mary Beth Alescio Walling

Notary Signature

MARY BETH ALESCIO WALLING
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01AL5056219
Qualified in Saratoga County
My Commrission Expires March 04, 2026

Notary Public Stamp

AFFIDAVIT OF PUBLICATION

Batavia Daily News

GENESEE COUNTY

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Tuesday, November 22, 2022, at 3:30 p.m., local time, at LeRoy Town Hall at 48 Main Street, LeRoy, New York 14482, in connection with the following matter:

AES RT 5 STORAGE, LLC, for itself or on behalf of an entity formed or to be formed (the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain real property located at West Main Road, Town of LeRoy, Genesee County, New York (the "Land", being more particularly described as a portion of tax parcel No. 29.-1-13.21); (ii) the planning, design, construction and operation of a 5MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

The Agency will broadcast the public hearing live at <https://vimeo.com/763933882>.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

REPORT OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY'S PUBLIC HEARING OF AES RT 5 STORAGE, LLC., HELD ON TUESDAY, NOVEMBER 22, 2022 3:30 P.M. AT THE LEROY TOWN HALL, 48 MAIN STREET, LEROY, NEW YORK, GENESEE COUNTY, NEW YORK

I. ATTENDANCE

Mark Masse, Sr. VP of Operation - GCEDC
Jim Krencik, Director of Marketing and Communications - GCEDC

II. CALL TO ORDER

The public hearing of AES Rt 5 Storage, LLC was opened at 3:30 p.m. at LeRoy Town Hall, 48 Main Street, in LeRoy, New York, Genesee County, New York.

A notice of this public hearing describing the project was published in the Batavia Daily News, a copy of which is attached and is an official part of this transcript.

III. PROJECT SUMMARY

AES Rt 5 Storage, LLC is proposing to construct a community solar farm project on West Main Road in the Town of Le Roy. The project will utilize ground-mounted solar panels to convert the sun's energy into 5 MW of AC power. The project will provide enhanced property tax payments via a 15-year PILOT that are significantly greater than the current agricultural-vacant land value of the project.

The project's PILOT will contribute \$4,000/MWAC + a 2% annual escalator in payments to the Genesee County, Town of Le Roy, and Le Roy Central School District. The PILOT is estimated to generate \$345,868 in PILOT payments over the 15-year term. The project will also fund a community benefit agreement for workforce development and economic development projects in Genesee County.

The project is aligned with New York's aggressive goals for renewable energy, energy efficiency and greenhouse gas reductions, and will offer customers a 10% discount vs average market rates for the generated power.

IV. COMMENTS

J. Krencik began the public hearing by providing a summary of the above-outlined project. He then stated the purpose and guidelines for the public hearing. The purpose of the public hearing is to solicit comments and feedback from the public regarding the proposed incentives on the above outlined project. There were no written comments received ahead of time to be included with the written record.

There was no public comment.

V. ADJOURNMENT

As there were no other comments, the public hearing was closed at 3:40 p.m.

Exhibit B

Negative Declaration of Town of LeRoy Planning Board

[Attached Hereto]

TOWN OF LEROY TOWN BOARD

Resolution # ___ of 2022

Resolution Confirming Status of Town Board as Lead Agency for this Type 1 Action and Issuing Negative Declaration of Environmental Significance for the Rt 5 Storage Solar Project (AES Rt 5 Storage Solar, LLC)

April 25, 2022

WHEREAS, AES Rt 5 Storage Solar, LLC (the “Applicant”) proposes to construct a 5-megawatt community solar power generation facility (the “Project”) on two parcels containing approximately 66 acres of land owned by Route 5 Storage, LLC (the “Owner”) located at 7054 W Main Road, LeRoy, New York (Tax IDs: 183689-029-000-0001-012-001 and 183689-029-000-0001-013-002) (the “Property”); and

WHEREAS, the proposed Project will be owned, operated, and maintained by the Applicant who will enter into a lease with the Owner for use of the Property as a solar facility; and

WHEREAS, on October 22, 2021, the Applicant submitted an application to the Town Planning Board seeking site plan approval for the Project; and

WHEREAS, the documents submitted by the Applicant as part of its application consisted of, among other things, (1) an application; (2) a Full Environmental Assessment Form (“EAF”); (3) site plans and specifications; (4) the requisite filing fee and escrow amount for the application; (5) a Payment in Lieu of Taxes (“PILOT”) Agreement; (6) a Decommissioning Agreement; (7) an Operation & Maintenance Plan; and (8) a variety of additional documents (collectively, the “Application”); and

WHEREAS, the Town Board, with the assistance of its technical and legal consultants, LaBella Associates (“LaBella”) and Mark Boylan, Esq. (“Town Attorney”), reviewed the Application materials; and

WHEREAS, solar systems are permitted in industrial zoning districts in the Town pursuant to the Town of LeRoy Local Law no. 1 of 2021; and

WHEREAS, by letter dated November 19, 2019, the New York State Office of Parks, Recreation, and Historic Preservation (“OPRHP”) stated that the Project is located in an archaeologically sensitive area and a Phase 1a archaeological survey was conducted; and

WHEREAS, a Phase 1b archaeological survey was conducted involving shovel test pits and by letter dated January 31, 2022, OPRHP signed off on the project finding that “no historic properties, including archeological and/or historic resources, will be affected by this undertaking.”; and

WHEREAS, on February 28, 2020, the Applicant received correspondence from the New York State Department of Environmental Conservation (“NYSDEC”) confirming that there are no records of rare or state-listed animals or plants, or significant natural communities at the project

site or in its immediate vicinity; and

WHEREAS, on October 17, 2019, the Applicant received correspondence from the U.S. Fish and Wildlife Service ("USFWS") stating that there are "0 threatened, endangered, or candidate species" in the proposed Project location; and

WHEREAS, the United States Army Corps of Engineers issued an Approved Jurisdictional Determination on May 28, 2020, stating that "the Site is not regulated under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act of 1899" and the application qualifies for approval under the USACE's nationwide permit program; and

WHEREAS, the Application was referred to the Genesee County Planning Board pursuant to NYS General Municipal Law Sections 239-l and 239-m, and the County Planning Board reviewed the Project materials and approved the Project in October of 2021 with two modifications: 1) that the Applicant follows the New York State Department of Agriculture and Markets ("NYSDAM") Guidelines for Solar Energy Projects and 2) that the applicant minimizes impacts to future farming by either relocating the portion of the driveway and equipment pads currently proposed through the middle of the field or amend the decommissioning plan to include decompaction of the foot print of the access road to a minimum of 24 inches beneath the bottom of the former stone layer and a post decommissioning monitoring for 3 growing seasons; and

WHEREAS, the Applicant responded to the County on November 5, 2021 stating that they will follow the NYSDAM guidelines and followed up with a response on April 26, 2022 conveying an agricultural data statement and confirming that the remaining County comment will be satisfied by amending the decommissioning plan;

WHEREAS, the Town Board has taken into consideration the site plan permit criteria contained in § 130-4 of the Town of LeRoy Zoning Code, respectively, including, but not limited to, the harmonious relationship between proposed uses and existing adjacent uses, the maximum safety of vehicular circulation between the site and street, adequacy of interior circulation, parking and loading facilities with particular attention to pedestrian safety, and adequacy of landscaping and setbacks to achieve compatibility with the protection of adjacent residential uses; and

WHEREAS, the Project is considered a Type I action under the New York State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, the Town Board declared its intent to be lead agency and conducted a coordinated review of the Application pursuant to SEQRA, and circulated said intent to all involved and interested agencies; and

WHEREAS, all involved and interested agencies either consented to the Town Board being lead agency or allowed the thirty (30) day period to lapse, and the Town Board as lead agency conducted a thorough review of Project carefully examining any potential adverse environmental impacts of the proposed Project; and

WHEREAS, the Town Board has reviewed Part 2 and Part 3 of the EAF and has been


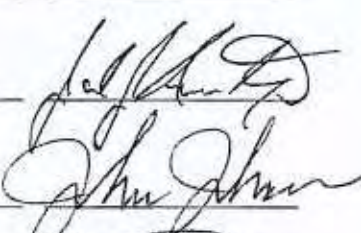
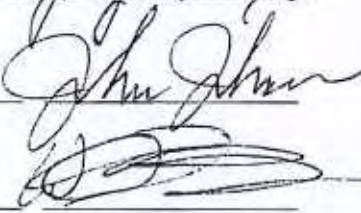

assisted in the review of the SEQRA documents and the Application by its legal counsel and consulting engineers;

NOW THEREFORE BE IT RESOLVED THAT, the Town Board hereby approves the EAF Parts 2 and 3 and issues a SEQRA Negative Declaration that is attached to this Resolution for the Project finding that the Project will not create any significant adverse environmental impacts and that a Draft Environmental Impact Statement (“DEIS”) need not be prepared; and

BE IT FURTHER RESOLVED, the Town Board’s approval of the EAF Parts 2 and 3, and issuance of the SEQRA Negative Declaration are subject to the following condition, that the Applicant receive site plan approval by the Town Planning Board; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be filed in the office of the Town of LeRoy Clerk within five (5) days of the date of this Resolution, and shall be mailed to the Applicant within the same five (5) day period.

The foregoing resolution was voted upon with members of the Town of LeRoy Town Board voting and signing as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain/Absent</u>	
James Farnholz Town Supervisor	X	_____	_____	
Dave Paddock	_____	_____	Absent	_____
John Armitage	X	_____	_____	
John Johnson	X	_____	_____	
Bill Fox	X	_____	_____	

Dated: April ²⁸, 2022
LeRoy, New York

Hecate Energy Cider Solar LLC - Cider Solar Project

Memo to the GCEDC Board of Directors

S. G. Hyde, President and CEO

December 1, 2022

3.5

Cider Solar Project – We are presenting the final resolution for IDA financial assistance to Hecate Energy Cider Solar LLC, a 500MW Utility Scale Solar project to be constructed and located on some 2,455 acres (fenced area) in the Towns of Elba and Oakfield, Genesee County.

This significant scale renewable energy (solar generation only) project, with a total capital investment noted of approximately \$550,000,000, is seeking to implement a series of tax agreements utilizing an IDA PILOT and separately the town and county have negotiated and will be utilizing a Host Community Agreement structure all of which has been suggested by guidance from NYSERDA and the NYS Office of Renewable Energy Siting (ORES). In total, the PILOT and Host Community Agreements along with special district taxes, elimination of ag exemptions, and utility bill credit program payments, are estimated to generate \$87,905,295 to municipalities over the 30-year project horizon.

The proposed savings from property tax (\$92,091,309), sales tax (\$44,000,000), and mortgage tax exemptions (\$5,500,000) which represents the total value of the IDA financial assistance offered and being voted on by the GCEDC Board is estimated at \$141,591,309. These are high-level estimates, and the company will continue to provide estimates to the agency as the project cost is developed during engineering, procurement, and construction.

This is a request for the GCEDC board to vote on the offered final resolution (attached) to approve the agreement for the above mentioned IDA financial assistance to be executed when and if the GCEDC receives confirmation that the Elba Town Board, Oakfield Town Board, and Genesee County Legislature have approved a corresponding resolution approving the term sheet which outlines the terms of the host community agreements and authorizes the Chief Executive Officers for the Towns and County to effectuate the host community agreements.

Public hearings on the proposed incentives are being conducted Monday, November 28 in both the Town of Elba and the Town of Oakfield. Those minutes will be provided under separate cover as soon as they are available but in advance of the 12/1/22 board meeting.

Included with the resolution in this board packet is a fiscal impact analysis that shows the project will, across all local taxing jurisdiction revenue streams, return a benefit of \$22 in fiscal payments to local taxing jurisdictions compared to \$1 of existing tax payments related to the involved properties prior to the project's implementation.

CEO Recommendation: Approval of final resolution for IDA financial assistance.

12/1/22

Customer Information

Potential Customer: Hecate Energy Cider Solar LLC **Opportunity Type:** Attraction

Project. St. Address: Various - Multiple Properties in the Town of Oakfield and Elba **Opportunity Product:** Property Sales & Mortgage Recording Taxes Only

City/Town/Village: Elba & Oakfield **Type of Project:** Attraction

Project. Description: Cider Solar **New Jobs:** 9

Total Capital Investment: \$550,000,000 **Retained Jobs:**

Incentive Amount: \$141,591,309 **School District:** Elba & Oakfield-Alabama

Benefited Amount: \$550,000,000 **PILOT Applicable:** Increase in assessed value of land and/or other buildings (pre-project value of land and or buildings excluded)

Project Information

Organization: GCEDC

Opportunity Source: 3rd Party Professional **Date of Public Hearing:** 11/28/22

Initial Acceptance Date: 11/1/2022 **Inducement Date:** 12/1/22

Opportunity Summary: Hecate Energy Cider Solar LLC is proposing to construct a utility scale solar farm project at various properties in the towns of Elba and Oakfield.

The project will be located on 2,455 acres and utilize solar panels mounted on tracking panel racks to convert the sun's energy into 500 MW of AC power, and will be interconnected with the electric grid.

The project will provide enhanced property tax-type payments to the host municipalities through 30-year PILOT and Host Community Agreements that will contribute fiscally at a significantly greater level (\$35.23 million PILOT payments, \$38.35 Host Community Agreement Payments) than the current agricultural-vacant land property tax payments generated by the project's properties.

Economic Impact: The project has an estimated \$87.9 million fiscal impact (PILOT payments, Host Community Agreement payments, fire district payments, elimination of ag-exemptions on acreage used for solar panels, and Residential Utility Bill Credits). This results in an estimated return of \$23 in fiscal impacts vs \$1 of existing fiscal impacts of the land's prior use.

Project Detail (Total Capital Investment)

Building Cost (Construction): **Capital Improvements:**

Equipment (non-taxable): **Equipment (Taxable) / Other Project Investment:**

Land Cost (Real Estate):

Total Capital Investment: \$550,000,000

Estimated Benefits Provided

Sales Tax Exempt: \$44,000,000

Mortgage Tax Exempt: \$5,500,000

Property Tax Exempt: \$92,091,309

Total Estimated Tax Incentives Provided: \$141,591,309

Total Amount Finance: \$550,000,000

Mortgage Amount: \$550,000,000

3.5

Project = Cider Solar - Fiscal Impact Analysis / Benefit Cost Analysis (BCA)

18-Aug-22

Life of Project View (Term of PILOT/HCA) :

Total Tax Agreements Life of Project (PILOT+Host+Rez Utility Credit) @ \$/MW =

\$ 5,072
Proposed Assessed Value

I) PILOT Payments:

MW-ac 500
Assess Value/MW \$ 352,800
Estimated Full Assessed Value - Project Level \$ 176,400,000
Project Life in Years (under contract) 30
Life of Project PILOT+Host Payments \$:

County	School	Town	Total	Special District Tax (Fire)	Total All	Comments:
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\$ 28,098,017	\$ 7,133,477	\$ 35,231,494	\$ 5,577,768	\$ 40,809,262	
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II) Host Benefit Payments:

Life of Project Host Benefit Payment \$:

\$ 13,183,497	\$ 25,169,100	\$ 38,352,597	\$ 38,352,597	
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III) Ag-Exemption Elimination Impact:

Estimated Increase in Assessed Value: \$ 6,019,394
Life of Project Increase in Property Tax \$:
Ag-Exemption elimination penalty (5 yrs. of above) 5
Life of Project Ag-Exemption Elimination Payments:

\$ 1,654,129	\$ 3,524,957	\$ 874,016	\$ 6,053,103	\$ 190,333	\$ 6,243,436
\$ 275,650	\$ 587,405	\$ 145,640	\$ 1,008,695	\$ 33,345	\$ 1,042,040
\$ 1,929,779	\$ 4,112,362	\$ 1,019,656	\$ 7,061,798	\$ 223,678	\$ 7,285,476

IV) Life of Project Increase in Property Tax type Revenues (I+II+III):

\$ 14,837,626	\$ 31,622,974	\$ 33,176,593	\$ 79,637,194	\$ 5,768,101	\$ 85,405,295
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V) Life of Project Residential Utility Bill Credits (\$500/MW 10 yrs.):

\$ 2,500,000	\$ 2,500,000
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VI) Life of Project Fiscal Impact + Residential Utility Bill Credits (IV+V):

\$ 14,837,626	\$ 31,622,974	\$ 33,176,593	\$ 82,137,194	\$ 5,768,101	\$ 87,905,295
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VII) Land Taxes prior to Project:

\$ 3,700,813	\$ 123,991	\$ 3,824,804
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VIII) X Factor Fiscal Impact (ROI):

memo: # acres (inside fence)	2455
memo: # acres	4650
	22.2
	23.0

1/2

1/2



11/31

Project Name: Hecate Energy Cider Solar LLC

Board Meeting Date: December 1, 2022

STATEMENT OF COMPLIANCE OF PROJECT CRITERIA LISTED IN UNIFORM TAX EXEMPTION POLICY (UTEP)

PROJECT DESCRIPTION:

Hecate Energy Cider Solar LLC is proposing to construct a utility scale solar farm project at various properties in the towns of Elba and Oakfield.

The \$550 million project will be located on 2,455 acres. The project will utilize solar panels mounted on tracking panel racks to convert the sun's energy into 500 MW of AC power, and will be interconnected with the electric grid.

The company is requesting assistance from the GCEDC with a property tax abatement estimated at \$92,091,309, a sales tax exemption estimated at \$44,000,000, and a mortgage tax exemption estimated at \$5,500,000.

Criteria #1 – The Project pledges to create and/or retain quality, good paying jobs in Genesee County.

Project details: In addition to requiring a significant construction workforce, the project estimates that operation and maintenance will create approximately 9 FTE jobs with an average annual compensation of approximately \$60,000. These jobs will be through direct employment by the project or through operations and maintenance contractors.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #2- Completion of the Project will enhance the long -term tax base and/or make a significant capital investment.

Project details: The project will provide enhanced property tax-type payments to the host municipalities through 30-year PILOT and Host Community Agreements that will contribute fiscally at a significantly greater level (\$35.23 million PILOT payments, \$38.35 Host Community Agreement Payments) than the current agricultural-vacant land property tax payments generated by the project's properties.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #3- The Project will contribute towards creating a “livable community” by providing a valuable product or service that is underserved in Genesee County.

Project details: N/A

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #4: The Board will review the Agency’s Fiscal and Economic Impact analysis of the Project to determine if the Project will have a meaningful and positive impact on Genesee County. This calculation will include the estimated value of any tax exemptions to be provided along with the estimated additional sources of revenue for municipalities and school districts that the proposed project may provide.

Project details: The project has an estimated \$87.9 million fiscal impact (PILOT payments, Host Community Agreement payments, fire district payments, elimination of ag-exemptions on acreage used for solar panels, and Residential Utility Bill Credits). This results in an estimated return of \$22 in fiscal impacts vs \$1 of existing fiscal impacts from the land's prior use.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

Criteria #5: The Project is included in one of the Agency’s strategic industries: Agri-Business and Food Processing, Manufacturing, Advanced Manufacturing and Nano-Enabled Manufacturing, Life Sciences and Medical Device.

Project details: The project is a “downstream” developer/installer of photovoltaic (solar) energy generation systems, which is a target industry cluster / strategic industry focused on by the Agency to attract photovoltaic (solar) manufacturing at STAMP.

Board Discussion:

Criteria #6: The Project will give a reasonable estimated timeline for the completion of the proposed project.

Project details: The project is planning to begin procurement in December 2022, with construction commencing in 2023 and commercial operations in mid-2024.

Board Discussion:

Board Concurrence: YES NO If no, state justification:

11/18/22

FINAL RESOLUTION
(Hecate Energy Cider Solar LLC Project)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, December 1, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. 12/2022 - _____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARINGS HELD BY THE AGENCY ON NOVEMBER 28, 2022, WITH RESPECT TO THE HECATE ENERGY CIDER SOLAR LLC (THE "COMPANY") PROJECT (THE "PROJECT"); (ii) ACKNOWLEDGING A CERTAIN PERMIT (AS DEFINED HEREIN) ISSUED BY THE OFFICE OF RENEWABLE ENERGY SITING; (iii) APPOINTING THE COMPANY AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT, (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT AND (C) A MORTGAGE RECORDING TAX EXEMPTION AS AUTHORIZED BY THE LAWS OF THE STATE OF NEW YORK; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **HECATE ENERGY CIDER SOLAR LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain real property located in the Town of Elba and the Town of Oakfield, Genesee County, New York (the "Land", being more particularly described in Schedule A attached hereto); (ii) the planning, design, construction and

operation of a 500MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility"); and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a tax agreement (the "Tax Agreement") and related documents with the Company, (iii) take or title to or a leasehold interest in the Land, the Improvements, the Equipment and personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement, and (c) a mortgage recording tax exemption as authorized by the laws of the State (collectively, the "Financial Assistance"); and

WHEREAS, on November 1, 2022, the Agency adopted a resolution (the "Initial Resolution") pursuant to which the Agency (i) accepted the Application of the Company, (ii) directed that a public hearing be held, and (iii) described the forms of financial assistance being contemplated by the Agency with respect to the Project; and

WHEREAS, pursuant to Section 859-a of the Act, on Monday, November 28, 2022, at 5:00 p.m. and on Monday, November 28, 2022, at 6:30 p.m., the Agency held public hearings with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (collectively, the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions at least ten (10) days prior to said Public Hearing are attached hereto as Exhibit A; and

WHEREAS, pursuant to Section 94-c of the New York State Executive Law and its implementing regulations (the "Code"), the Office of Renewable Energy Siting ("ORES") issued a certain siting permit on July 25, 2022 (the "Permit") to and for the benefit of the Company; and

WHEREAS, pursuant to Section 94-c(6)(a) of the Code, the Agency is not required to satisfy the applicable requirements set forth in the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"); and

WHEREAS, the Agency desires to acknowledge the findings of ORES as further set forth in the Permit; and

WHEREAS, pursuant to Article 18-A of the Act the Agency desires to adopt a resolution approving the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, the Project Agreement, the Lease Agreement, the Leaseback Agreement, the Tax Agreement and related documents will be negotiated and presented to the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency for approval and execution subject to adoption of the resolutions contained herein.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Application, the Agency hereby finds and determines that:

(A) By virtue of the Act, the Agency 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; and

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

(C) The Agency has the authority to take the actions contemplated herein under the Act; and

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Genesee County, New York and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project 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 located within the State; and the Agency hereby finds that, based on the Application and the Company's certifications therein, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) ORES has conducted a review of the Project pursuant to the Code and has issued the Permit to and for the benefit of the Company. The Agency, having reviewed the Permit and related materials, hereby acknowledges the Permit issued by ORES. A copy of the Permit issued by ORES is attached hereto as **Exhibit B**.

Section 2. The Public Hearing held by the Agency on Monday, November 28, 2022, at 5:00 p.m. and on Monday, November 28, 2022 at 6:30 p.m., concerning the Project and the Financial Assistance was duly held in accordance with the Act, including but not limited to the giving of at least ten (10) days published notice of the Public Hearing (such notice also provided to the Chief Executive Officer of each affected tax jurisdiction), affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 3. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement and (c) a mortgage recording tax exemption as authorized by the laws of the State.

Section 4. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to State and local sales and use tax in an amount up to **\$550,000,000.00**, which result in State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$44,000,000.00**. The Agency agrees to consider any requests by the Company for an increase 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. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 6. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the

Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, reconstruct, renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Project Agreement shall expire on **December 31, 2024** (unless extended for good cause by the President/CEO of the Agency) if the Lease Agreement, the Leaseback Agreement and the Tax Agreement contemplated have not been executed and delivered.

Section 7. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Project Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the Tax Agreement; *provided, however*, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project and (ii) the terms of the Tax Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 8. The President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver and record the Mortgage securing an aggregate principal amount not to exceed **\$550,000,000.00**, and any security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") to assist with the undertaking of the Project, the acquisition of the Facility and/or the finance or re-finance the Facility or equipment and other personal property and related transactional costs (hereinafter, with the Project Agreement, Lease Agreement, Leaseback Agreement, Tax Agreement and the Mortgage, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency shall approve, the execution thereof by the President/CEO, Chair, Vice Chair and/or Senior Vice President of Operations of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 9. The Agency is hereby authorized to provide the Company with an exemption from mortgage recording taxes as permitted by New York State law in an amount not to exceed One Hundred Fifty-Four Thousand Eight Hundred and 00/100 Dollars (**\$5,500,000.00**).

Section 10. The provision of the Financial Assistance shall be conditioned upon the Company entering into those certain host community agreements with Genesee County, the Town of Elba, and the Town of Oakfield.

Section 11. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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 the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 12. These Resolutions shall take effect immediately upon adoption.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zeliff	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

SECRETARY'S CERTIFICATION
(Hecate Energy Cider Solar LLC Project)

STATE OF NEW YORK)
COUNTY OF GENESEE) SS.:

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on December 1, 2022, with the original thereof on file in the offices of the Agency, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this ___ day of _____, 2022.

Secretary

Exhibit A

Notice Letter, Notice of Public Hearing,
Affidavit of Publication of *The Batavia Daily News*
and Minutes of Public Hearing

[Attached Hereto]



**PUBLIC HEARING NOTICE LETTER AND NOTICE OF DEVIATION
(Hecate Energy Cider Solar LLC – Town of Elba)**

November 3, 2022

To: Chief Executive Officers Listed
on Schedule A attached hereto

**Re: Genesee County Industrial Development Agency d/b/a Genesee County
Economic Development Center and Hecate Energy Cider Solar LLC**

Notice of Public Hearing and Notice of Deviation

Ladies and Gentlemen:

On Monday, November 28, 2022, at 5:00 p.m., local time, at Elba Fireman's Recreation Hall, 7143 Oak Orchard Road, Elba, New York 14058, the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") will conduct a public hearing regarding the above-referenced project. Attached is a copy of the Notice of Public Hearing describing the project and the financial assistance contemplated by the Agency. The Notice has been submitted to *The Daily News* for publication.

The Agency will broadcast the public hearing live at <https://vimeo.com/763931983>.

The Agency will consider the Project and the Financial Assistance (each as defined in the attached Notice of Public Hearing), including the Tax Agreement, the terms of which are proposed to contain a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy"). The Agency is contemplating a deviation from the Policy as follows: the Agency contemplates providing the Company with a partial tax abatement of real property taxes under the Tax Agreement, which provides for a partial abatement period for a total of thirty (30) years.

The Agency has concluded that the proposed deviation from the Agency's Policy will make it financially feasible for the Company to undertake the Project, and the Project will positively impact the health, community, environment and economy of the residents of Genesee County, New York, by expanding the tax base.

You are welcome to attend such hearing at which time you will have an opportunity to review the project application and present your views, both orally and in writing, with respect to the project. We are providing this notice to you, pursuant to General Municipal Law Section 859-(a), as the chief executive officer of an affected tax jurisdiction within which the project is located to notify you of a proposed deviation from the Agency's Policy.

Very truly yours,

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

SCHEDULE A

GENESEE COUNTY

Certified Mail No.
7020-2459-0001-6551-9841
Genesee County Manager
Old Courthouse
7 Main Street
Batavia, New York 14020

Certified Mail No.
7019-1640-0000-1184-4125
Genesee County Legislature
Attn: Chair
Old Courthouse
7 Main Street
Batavia, New York 14020

TOWN OF ELBA

Certified Mail No.
7018-0360-0002-1919-6829
Town of Elba
Attn: Supervisor
7133 Oak Orchard Road
Elba, New York 14058

ELBA CENTRAL SCHOOL DISTRICT

Certified Mail No.
7018-0360-0002-1919-6836
Elba Central School District
Attn: Superintendent
57 South Main Street, P.O. Box 370
Elba, New York 14058

Certified Mail No.
7018-0360-0002-1919-6836
Elba Central School District
Attn: President, Board of Education
57 South Main Street, P.O. Box 370
Elba, New York 14058

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 28, 2022, at 5:00 p.m., local time, at Elba Fireman's Recreation Hall, 7143 Oak Orchard Road, Elba, New York 14058 **and** on Monday, November 28, 2022, at 6:30 p.m., local time, at Oakfield Community and Government Center, 3219 Drake Street Road, Oakfield, New York 14125, each in connection with the following matter:

HECATE ENERGY CIDER SOLAR LLC, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain real property located in the Town of Elba and the Town of Oakfield, Genesee County, New York (the "Land"); (ii) the planning, design, construction and operation of a 500MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

The Agency will broadcast the public hearing being held in the Town of Elba live at <https://vimeo.com/763931983>, and the Agency will broadcast the public hearing being held in Town of Oakfield live at <https://vimeo.com/763932849>.

The proposed Financial Assistance deviates from the Agency's Uniform Tax Exemption Policy in that the proposed partial abatement period is for a total of thirty (30) years, and procedures for deviation will be complied with by the Agency.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER



**PUBLIC HEARING NOTICE LETTER AND NOTICE OF DEVIATION
(Hecate Energy Cider Solar LLC – Town of Oakfield)**

November 3, 2022

To: Chief Executive Officers Listed
on Schedule A attached hereto

**Re: Genesee County Industrial Development Agency d/b/a Genesee County
Economic Development Center and Hecate Energy Cider Solar LLC**

Notice of Public Hearing and Notice of Deviation

Ladies and Gentlemen:

On Monday, November 28, 2022, at 6:30 p.m., local time, at Oakfield Community and Government Center, 3219 Drake Street Road, Oakfield, New York 14125, the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") will conduct a public hearing regarding the above-referenced project. Attached is a copy of the Notice of Public Hearing describing the project and the financial assistance contemplated by the Agency. The Notice has been submitted to *The Daily News* for publication.

The Agency will broadcast the public hearing live at <https://vimeo.com/763933882>.

The Agency will consider the Project and the Financial Assistance (each as defined in the attached Notice of Public Hearing), including the Tax Agreement, the terms of which are proposed to contain a deviation from the Agency's Uniform Tax Exemption Policy (the "Policy"). The Agency is contemplating a deviation from the Policy as follows: the Agency contemplates providing the Company with a partial tax abatement of real property taxes under the Tax Agreement, which provides for a partial abatement period for a total of thirty (30) years.

The Agency has concluded that the proposed deviation from the Agency's Policy will make it financially feasible for the Company to undertake the Project, and the Project will positively impact the health, community, environment and economy of the residents of Genesee County, New York, by expanding the tax base.

You are welcome to attend such hearing at which time you will have an opportunity to review the project application and present your views, both orally and in writing, with respect to the project. We are providing this notice to you, pursuant to General Municipal Law Section 859-(a), as the chief executive officer of an affected tax jurisdiction within which the project is located to notify you of a proposed deviation from the Agency's Policy.

Very truly yours,

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

SCHEDULE A

GENESEE COUNTY

Certified Mail No.
7020-2459-0001-6551-9841

Genesee County Manager
Old Courthouse
7 Main Street
Batavia, New York 14020

Certified Mail No.
7019-1640-0000-1184-4125

Genesee County Legislature
Attn: Chair
Old Courthouse
7 Main Street
Batavia, New York 14020

TOWN OF OAKFIELD

Certified Mail No.
7019-1640-0000-1184-3562

Town of Oakfield
Attn: Supervisor
3219 Drake Street
Oakfield, New York 14125

OAKFIELD-ALABAMA CENTRAL SCHOOL DISTRICT

Certified Mail No.
7018-0360-0002-1919-6805

Oakfield-Alabama Central School District
Attn: Superintendent
7001 Lewiston Road
Oakfield, New York 14125

Certified Mail No.
7018-0360-0002-1919-6812

Oakfield-Alabama Central School District
Attn: President, Board of Education
7001 Lewiston Road
Oakfield, New York 14125

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 28, 2022, at 5:00 p.m., local time, at Elba Fireman's Recreation Hall, 7143 Oak Orchard Road, Elba, New York 14058 **and** on Monday, November 28, 2022, at 6:30 p.m., local time, at Oakfield Community and Government Center, 3219 Drake Street Road, Oakfield, New York 14125, each in connection with the following matter:

HECATE ENERGY CIDER SOLAR LLC, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain real property located in the Town of Elba and the Town of Oakfield, Genesee County, New York (the "Land"); (ii) the planning, design, construction and operation of a 500MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

The Agency will broadcast the public hearing being held in the Town of Elba live at <https://vimeo.com/763931983>, and the Agency will broadcast the public hearing being held in Town of Oakfield live at <https://vimeo.com/763932849>.

The proposed Financial Assistance deviates from the Agency's Uniform Tax Exemption Policy in that the proposed partial abatement period is for a total of thirty (30) years, and procedures for deviation will be complied with by the Agency.



**CORRECTED PUBLIC HEARING NOTICE LETTER AND NOTICE OF DEVIATION
(Hecate Energy Cider Solar LLC – Town of Oakfield)**

VIMEO LIVESTREAM LINK: [HTTPS://VIMEO.COM/763932849](https://vimeo.com/763932849)

November 9, 2022

To: Chief Executive Officers Listed
on Schedule A attached hereto

**Re: Genesee County Industrial Development Agency d/b/a Genesee County
Economic Development Center and Hecate Energy Cider Solar LLC**

Ladies and Gentlemen:

In letter to you dated November 3, 2022, and in Notice of Public Hearing published on November 8, 2022, in the Batavia *Daily News* with respect to a public hearing to be held pursuant to Article 18-A of the New York General Municipal Law by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 28, 2022, at 6:30 p.m., local time, at Oakfield Community and Government Center, 3219 Drake Street Road, Oakfield, New York 14125, for the benefit of Hecate Energy Cider Solar LLC (the "Public Hearing"), an incorrect Vimeo livestream link was provided.

The correct Vimeo livestream link at which the Public Hearing will be broadcast by the Agency at the Town of Oakfield is <https://vimeo.com/763932849>.

Very truly yours,

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY d/b/a
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

SCHEDULE A

GENESEE COUNTY

Genesee County Manager
Old Courthouse
7 Main Street
Batavia, New York 14020

Genesee County Legislature
Attn: Chair
Old Courthouse
7 Main Street
Batavia, New York 14020

TOWN OF OAKFIELD

Town of Oakfield
Attn: Supervisor
3219 Drake Street
Oakfield, New York 14125

OAKFIELD-ALABAMA CENTRAL SCHOOL DISTRICT

Oakfield-Alabama Central School District
Attn: Superintendent
7001 Lewiston Road
Oakfield, New York 14125

Oakfield-Alabama Central School District
Attn: President, Board of Education
7001 Lewiston Road
Oakfield, New York 14125

**CORRECTION NOTICE
OF PUBLIC HEARING**

In Notice of Public Hearing published on November 8, 2022, in the *Batavia Daily News* with respect to a public hearing to be held pursuant to Article 18-A of the New York General Municipal Law by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 28, 2022, at 6:30 p.m., local time, at Oakfield Community and Government Center, 3219 Drake Street Road, Oakfield, New York 14125, for the benefit of Hecate Energy Cider Solar LLC (the "Public Hearing"), an incorrect Vimeo livestream link was provided.

The correct Vimeo livestream link at which the Public Hearing will be broadcast by the Agency in at the Town of Oakfield live is <https://vimeo.com/763932849>.

Dated: November 12, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC
CENTER

AFFIDAVIT OF PUBLICATION

Batavia Daily News

State of New York,

County of, Genesee,

The undersigned is the authorized designee of **Batavia Daily News**, a **Daily** Newspaper published in **Genesee** County, **New York**. I certify that the public notice, a printed copy of which is attached hereto, was printed and published in this newspaper on the following dates:

November 08, 2022

This newspaper has been designated by the County Clerk of **Genesee** County, as a newspaper of record in this county, and as such, is eligible to publish such notices.



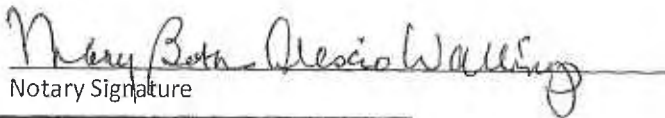
Signature

Eliot T. Putnam

Printed Name

Subscribed and sworn to before me,

This 09 day of November 2022


Notary Signature

MARY BETH ALESCIO WALLING
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01AL5056219
Qualified in Saratoga County
My Commission Expires March 04, 2026

Notary Public Stamp

AFFIDAVIT OF PUBLICATION

Batavia Daily News

GENESEE COUNTY

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Article 18-A of the New York General Municipal Law will be held by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 28, 2022, at 5:00 p.m., local time, at Elba Fireman's Recreation Hall, 7143 Oak Orchard Road, Elba, New York 14058 and on Monday, November 28, 2022, at 6:30 p.m., local time, at Oakfield Community and Government Center, 3219 Drake Street Road, Oakfield, New York 14125, each in connection with the following matter:

HECATE ENERGY CIDER SOLAR LLC, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company") has submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (i) the acquisition by the Agency of a leasehold or other interest in certain real property located in the Town of Elba and the Town of Oakfield, Genesee County, New York (the "Land"); (ii) the planning, design, construction and operation of a 500MWac PV solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (the "Improvements"); and (iii) the acquisition by the Company in and around the Improvements of certain items of machinery, equipment and other tangible personal property (the "Equipment"; and, together with the Land and the Improvements, the "Facility").

The Agency will acquire title to, or a leasehold interest in, the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the Company will purchase the Facility from the Agency, or if the Agency holds a leasehold interest, the leasehold interest will be terminated. The Agency contemplates that it will provide financial assistance (the "Financial Assistance") to the Company in the form of sales and use tax exemptions, a mortgage recording tax exemption consistent with the policies of the Agency, and a partial real property tax abatement.

The Agency will broadcast the public hearing being held in the Town of Elba live at <https://vimeo.com/763931983>, and the Agency will broadcast the public hearing being held in Town of Oakfield live at <https://vimeo.com/763933882>.

The proposed Financial Assistance deviates from the Agency's Uniform Tax Exemption Policy in that the proposed partial abatement period is for a total of thirty (30) years, and procedures for deviation will be complied with by the Agency.

A representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application and hear and accept written and oral comments from all persons with views in favor of or opposed to or otherwise relevant to the proposed Financial Assistance.

Dated: November 6, 2022

GENESEE COUNTY INDUSTRIAL
DEVELOPMENT AGENCY D/B/A

Harris Beach PLLC

8dd98827-9496-46e9-ad28-194c9d4fecf6

aabbink@harrisbeach.com

AFFIDAVIT OF PUBLICATION

Batavia Daily News

GENESEE COUNTY ECONOMIC
DEVELOPMENT CENTER

AFFIDAVIT OF PUBLICATION

Batavia Daily News

State of New York,

County of, Genesee,

The undersigned is the authorized designee of **Batavia Daily News**, a **Daily** Newspaper published in **Genesee** County, **New York**. I certify that the public notice, a printed copy of which is attached hereto, was printed and published in this newspaper on the following dates:

November 12, 2022

This newspaper has been designated by the County Clerk of **Genesee** County, as a newspaper of record in this county, and as such, is eligible to publish such notices.

Eliot T. Putnam

Signature

Eliot T. Putnam

Printed Name

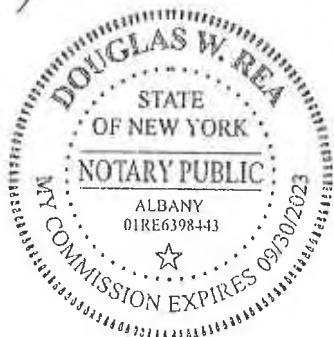
Subscribed and sworn to before me,

This 16 day of November 2022

Douglas W. Rea

Notary Signature

Notary Public Stamp



AFFIDAVIT OF PUBLICATION

Batavia Daily News

GENESEE COUNTY
PUBLIC NOTICE
CORRECTION NOTICE
OF PUBLIC HEARING

In Notice of Public Hearing published on November 8, 2022, in the Batavia Daily News with respect to a public hearing to be held pursuant to Article 18-A of the New York General Municipal Law by the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency") on Monday, November 28, 2022, at 6:30 p.m., local time, at Oakfield Community and Government Center, 3219 Drake Street Road, Oakfield, New York 14125, for the benefit of Hecate Energy Cider Solar LLC (the "Public Hearing"), an incorrect Vimeo livestream link was provided.

The correct Vimeo livestream link at which the Public Hearing will be broadcast by the Agency in at the Town of Oakfield live is <https://vimeo.com/763932849>.

Dated: November 12, 2022

GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A
GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER

Minutes to be provided after the 11.28.22 public hearing of the Hecate Energy Cider Solar, LLC Project is held.

Exhibit B

ORES Siting Permit

[Attached Hereto]

STATE OF NEW YORK OFFICE OF RENEWABLE ENERGY SITING (ORES)

SITING PERMIT FOR A
MAJOR RENEWABLE ENERGY FACILITY

IN

Towns of Elba and Oakfield, Genesee County

ISSUED TO

Hecate Energy Cider Solar LLC

ORES DOCKET NO. 21-01108

July 25, 2022



**Office of
Renewable
Energy Siting**

KATHY HOCHUL
GOVERNOR
HOUTAN MOAVENI
EXECUTIVE DIRECTOR

**STATE OF NEW YORK
OFFICE OF RENEWABLE ENERGY SITING**

ORES DMM Matter Number 21-01108- Application of HECATE ENERGY CIDER SOLAR LLC, for a Major Renewable Energy Facility Permit pursuant to § 94-c of the New York Executive Law to Develop, Design, Construct, Operate, Maintain, and Decommission a 500 megawatt (MW) Solar Energy Facility in the Towns of Elba and Oakfield, Genesee County.

**SITING PERMIT FOR A MAJOR RENEWABLE ENERGY
FACILITY**

Issued July 25, 2022

In accordance with the requirements of section 94-c of the Executive Law and its implementing regulations (title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York [19 NYCRR] part 900), the Office of Renewable Energy Siting (Office or ORES) issues this Siting Permit (Permit) to Hecate Energy Cider Solar LLC (Permittee) for a Major Renewable Energy Facility (Solar Facility or Facility).

This Siting Permit is supported by the extensive record compiled in the Executive Law § 94-c proceedings including standards, terms and conditions attached to and made a part of this Permit (Attachment A). The Siting Permit reflects public comments, either submitted in writing or during a public comment hearing conducted by the two assigned Administrative Law Judges (ALJs); the host municipalities' statements of compliance with local laws and regulations; and the 07/25/2022 decision of the Executive Director.

The Office in its final decision considered, among other matters, public health and safety and all pertinent social, economic and environmental factors of the Solar Facility. Based upon the Office's comprehensive review of the record, the Office finds and determines that the Solar Facility, together with applicable provisions of the Uniform Standards and Conditions (USCs) (subpart

5 of this Siting Permit), necessary site-specific conditions (subpart 6 of this Siting Permit), and applicable pre-construction and post-construction compliance filings (subpart 7 of this Siting Permit):

- a) complies with Executive Law § 94-c and applicable provisions of the Office's regulations at 19 NYCRR part 900;
- b) complies with substantive provisions of applicable State laws and regulations;
- c) complies with substantive provisions of applicable local laws and ordinances, except those provisions the Office has elected not to apply based on a finding that they are unreasonably burdensome in view of the Climate Leadership and Community Protection Act (CLCPA) targets and the environmental benefits of the Facility;
- d) avoids, minimizes, or mitigates, to the maximum extent practicable, potential significant adverse environmental impacts of the Facility;
- e) achieves a net conservation benefit with respect to any impacted threatened or endangered species; and
- f) contributes to New York's CLCPA targets by providing up to an additional 500 MW of renewable energy, and provides the environmental benefits of offsetting up to 400,000 tons of greenhouse gas emissions per year.

In making the required finding, the Office considered CLCPA targets and the environmental benefits of the proposed major renewable energy facility.

Subject to the terms, conditions and requirements in Attachment A to this Siting Permit, the Permittee is authorized to develop, design, construct, operate, maintain, and decommission a Solar Facility with a nameplate generating capacity of up to 500 MW in the Towns of Elba and Oakfield, Genesee County, New York. The Solar Facility shall comply with the standards, conditions and requirements specified in this Siting Permit.

Any potential changes to the Facility proposed by the Permittee will be subject to review by the Office in compliance with 19 NYCRR part 900. All standards, conditions and requirements in this Siting Permit shall be enforceable obligations to the State of New York in accordance with 19 NYCRR subpart 900-12 and other applicable law.

The Siting Permit will automatically expire if the Solar Facility does not commence commercial operation within seven (7) years from the date of issuance.

Approved: Houtan Moaveni

Houtan Moaveni
Executive Director
New York State Office of Renewable Energy Siting

Dated: July 25, 2022

cc: Party List - ORES DMM Matter No. 21-01108

**ATTACHMENT A
FINAL SITING PERMIT**

1. PERMIT

In compliance with Executive Law § 94-c and 19 NYCRR part 900, this Siting Permit is expressly subject to the standards, conditions and requirements set forth in this Attachment A, including without limitation the following terms and conditions:

1.1 Applicability; Powers of Municipalities and State Agencies and Authorities

The Siting Permit issued herein is based upon the plans, specifications, reports, statements, agreements and other information submitted by or on behalf of the Permittee in the application record for this Facility (Matter No. 21-01108), incorporated herein by reference. This information is freely accessible on the ORES website at Permit Applications | Office of Renewable Energy Siting (ny.gov), subject to such redactions as are required by law and/or ordered by the assigned Administrative Law Judges.

Pursuant to § 94-c of the New York State Executive Law and its implementing regulations at 19 NYCRR subparts 900-1 through 900-15, the Facility shall be designed, developed, constructed, maintained and operated in conformity with this Siting Permit and any terms, limitations or conditions contained herein.

Notwithstanding any other provision of law, including without limitation article eight of the Environmental Conservation Law ("ECL") and article seven of the Public Service Law (PSL), no other state agency, department or authority, or any municipality or political subdivision or any agency thereof may, except as expressly authorized under § 94-c of the New York State Executive Law and implementing regulations at 19 NYCRR part 900, require any approval, consent, permit, certificate, contract, agreement, or other condition for the development, design, construction, operation, or decommissioning of the major renewable energy facility authorized pursuant to this Permit.

Nothing in this Siting Permit shall exempt such Facility from compliance with applicable federal laws, rules and regulations, and the Permittee remains responsible for providing copies of all federal and federally-delegated permits and approvals for construction and operation of the Facility simultaneously with other required pre-construction compliance filings hereunder.

1.2 Record of Proceeding

In addition to the Permittee information referenced above, the record of this application includes all information submitted with respect to the ORES Application (Docket No. 21-01108), by or on behalf of municipalities and local agencies, members of the public and other participants, as well as ORES and other state agencies and authorities, and is freely accessible on the ORES website, subject to such redactions as are required by law and/or ordered by the assigned Administrative Law Judges.

2. PROJECT DESCRIPTION

The Facility is a solar photovoltaic energy generating project in the Towns of Oakfield and Elba, Genesee County. The Facility consists of solar arrays, buried electrical collection lines, access roads, inverters, transformers, security fencing, temporary construction laydown areas, and an on-site substation. The Facility will interconnect to a new utility-owned switchyard adjacent to the existing New York Power Authority (NYPA) 345kV Dysinger to New Rochester Transmission facility. The lines connecting conductors between the substation and the switching station are expected to be approximately 424 feet. The total nameplate capacity of the Facility shall not exceed 500 megawatts (MW).

The Project components will be located on a Project Site of approximately 4,650 acres, comprised of 67 parcels of leased private land owned by 31 land holding entities. The total Project Footprint is approximately 2,452 acres, which includes both temporary and permanent disturbance and comprises the limit of disturbance (LOD).

The proposed Solar Facility will directly contribute significantly to New York State's Climate Leadership and Community Protection Act (CLCPA) targets by producing up to 500 MW of emissions-free, low-cost, renewable solar energy to New York's energy market. The Facility will produce enough zero-emissions energy to power more than 125,000 homes in NYS. The Facility will also create job opportunities, support economic growth, and protect the public health, safety and environment by significantly reducing greenhouse gas emissions. Without limitation, the Facility will result in a reduction of over 400,000 tons of greenhouse gas emissions in New York State (DMM Item No. 35, Exhibit 2 Overview and Public Involvement, September 3, 2021, at 2).

3. PROCEDURAL BACKGROUND

- (a) On 06/03/2021, the Permittee submitted an application for a major renewable energy facility (the Application) to the Office pursuant to Executive Law § 94-c.
- (b) On 08/02/2021, the Office issued a notice of incomplete application.
- (c) On 09/03/2021, the Permittee filed an Application Supplement.
- (d) On 11/02/2021, the Office issued a second notice of incomplete application.
- (e) On 11/22/2021, the Permittee filed a second Application Supplement.
- (f) On 12/31/2021, the Office determined that the Application, together with the Application Supplements filed on 09/03/2021 and 11/22/2021, was complete in compliance with Executive Law § 94-c(5)(b) and 19 NYCRR §§ 900-4.1(c) and (g).
- (g) On 03/01/2022, the Office published this draft Permit on its website for public comment.
- (h) On 03/01/2022, the Office issued a combined notice of availability of draft permit conditions, notice of the public comment period and public comment hearing, and notice of the

issues determination procedure including instructions for the filing a petition for party status.

- (i) On 05/04/2022, the ALJs held an in-person public comment hearing. On 05/10/2022, the ALJs held a virtual public comment hearing by WebEx. In addition to the verbal comments at the hearings, the Office received 1 written comment.
- (j) On 05/10/2022, Elba Neighbor Alliance (ENA) timely filed a petition for party status. On 05/10/2022, the Town of Elba also filed its statement of compliance with local laws and regulations.
- (k) On 06/23/2022, the ALJs issued a ruling on issues and party status. The ruling held that petitioner failed to raise substantive and significant issues requiring adjudication and denied party status to ENA.
- (l) On 06/27/2022, ENA appealed from the issues and party status ruling.
- (m) On 07/25/2022, the Executive Director issued a decision that upheld the issues and party status ruling, and directed Office Staff, pursuant to 19 NYCRR § 900-8.3(c)(5), to continue processing the application to issue the requested Siting Permit.

4. REQUIRED FINDINGS

Executive Law § 94-c(5)(e) provides that a Siting Permit may only be issued if the Office makes a finding that the proposed Facility, together with any applicable Uniform Standards and Conditions, Site Specific Conditions, and compliance filings set forth in the Permit would comply with applicable laws and regulations. In making this determination, the Office may elect not to apply, in whole or in part, any local law or ordinance which would otherwise be applicable if it makes a finding that, as applied to the proposed Facility, it is unreasonably burdensome in view of the CLCPA targets and the environmental benefits of the proposed Facility.

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In compliance with Executive Law § 94-c(5)(e), the Office has considered, without limitation, the proposed Facility's contribution of up to 500 MW toward New York State's CLCPA targets, and the environmental benefits of producing enough zero-emissions energy to power more than 125,000 homes in New York State and reduce greenhouse gas emissions by at least 400,000 tons in the State.

The Permittee has requested that the Office elect not to apply the following provisions of local law or ordinance. The Office hereby determines not to apply, in whole or in part, the following local law or ordinance provisions, which when applied to the proposed Facility, are unreasonably burdensome in view of the CLCPA targets and the environmental benefits of the proposed Facility. In making the determinations herein, the Office has balanced the proposed Facility's competing impacts to multiple resources, and considered the Permittee's proposed measures to avoid, minimize or mitigate those impacts to the maximum extent practicable, while ensuring protection of the environment and consideration pertinent social, economic and environmental factors.

Except for the provisions of local law or ordinance indicated below, the Office finds that the Facility, as proposed and permitted herein, shall comply with the substantive provisions of the applicable local laws or ordinances identified in the Application.

(a) Town of Elba Zoning Law

The Office finds that the Facility, as proposed and permitted herein, shall comply with substantive provisions of the applicable laws and ordinances of the Town of Elba, including without limitation the Elba Zoning Law and section 413 (Solar Energy Systems) (Local Law No. 1 of 2021), as identified in Application Exhibit 24, Local Laws and Ordinances and appendices (as revised September 3, 2021) (DMM Item No. 34). In making this determination, the Office approves the Permittee's request to comply with the decommissioning security requirements in the Town of Elba Zoning Law in lieu of the decommissioning security requirements set forth in 19 NYCRR §§ 900-2.24(c) and 900-6.6(b). See also Site Specific

Condition at subpart 6(c) of this Permit.

(b) Town of Oakfield Zoning Ordinance

(1) Principal Building and Lot Use Limitations

The Permittee requested relief from § 411.1 of the Zoning Ordinance of the Town of Oakfield, which provides:

One Principal Building and Use Per Lot

There shall not be more than one principal structure and one principal use on any one lot in the following districts:

Land Conservation (LC)
Residential-Agriculture (RA)
General Residential (R)
Commercial (C)

Based upon the specific facts in this case, the Office respectfully elects not to apply § 411.1 of the Zoning Ordinance of the Town of Oakfield.

(2) Parking and Vehicle Storage

The Permittee requested relief from § 520 of the Zoning Ordinance of the Town of Oakfield, which provides:

General Off-Street Parking Provisions and Regulations

For every building or structure erected, altered or extended after the enactment of this Ordinance, there shall be provided parking facilities or vehicle storage as set forth below. As defined in this ordinance, an off-street parking space shall measure no less than ten (10) feet in width and twenty (20) feet in depth and include sufficient space for aisles and maneuverability. All parking areas, passageways, and driveways (except when provided in connection with one and two family

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residential uses and farm residences) shall be surfaced with a dustless, durable, all-weather pavement clearly marked for car spaces and shall be adequately drained, all subject to the approval of the Planning Board.

520.1 A site plan shall be filed with the permit application where off-street parking facilities are required or permitted, under the provisions of this Ordinance in connection with the use or uses for which application is being made.

520.2 Off-street parking in commercial and industrial zones may be provided in any yard space, but shall not be closer than ten (10) feet to any district boundary line. The term vehicle as used in this section shall include, but not be limited to, automobiles, motorcycles, trucks, motor homes, campers and trailers, including recreational and boat trailers.

520.3 The collective provision of off-street parking areas by two or more commercial or industrial buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users.

520.4 No driveway providing access to an off-street parking area shall be located closer than fifty feet to the intersection of public streets.

520.5 All parking areas and appurtenant passageways and driveways serving commercial and industrial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by business uses to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.

Based upon the specific facts in this case, the Office respectfully elects not to apply § 520 of the Zoning Ordinance of the Town of Oakfield.

With the exception of §§ 411.1 and 520 of the Zoning Ordinance of the Town of Oakfield, the Office finds that the Facility, as proposed and permitted herein, shall comply with the substantive provisions of the applicable laws and ordinances of the Town of Oakfield as identified in the Application Exhibit 24, Local Laws and Ordinances (as revised September 3, 2021) (DMM Item No. 34).

5. UNIFORM STANDARDS AND CONDITIONS (19 NYCRR subpart 900-6)

The Permittee shall comply with the following Uniform Standards and Conditions (USCs) during construction and operation of the Facility over the life of this Permit. Certain USCs are not applicable, as noted below, due to the fact that the Facility has been designed to comply with the USC and/or avoid impacts to a particular resource, the resource is not present at this Facility, or the specific technology proposed renders the USC inapplicable.

5.1. Facility Authorization

- (a) **Compliance.** The Permittee shall implement any impact avoidance, minimization and/or mitigation measures identified in the exhibits, compliance filings and/or contained in a specific plan required under 19 NYCRR Part 900, as approved by the Office. If there is any discrepancy between an exhibit or compliance filing and a permit condition, the Permittee shall comply with the permit condition and notify the Office immediately for resolution.
- (b) **Property Rights.** Issuance of a siting permit does not convey any rights or interests in public or private property. The Permittee shall be responsible for obtaining all real property, rights-of-way (ROW), access rights and other interests or licenses in real property required for the construction and operation of the facility.
- (c) **Eminent Domain.** Issuance of a siting permit to a Permittee that is an entity in the nature of a merchant generator and

not in the nature of a fully regulated public utility company with an obligation to serve customers does not constitute a finding of public need for any particular parcel of land such that a condemner would be entitled to an exemption from the provisions of Article 2 of the New York State Eminent Domain Procedure Law ("EDPL") pursuant to Section 206 of the EDPL.

(d) Other Permits and Approvals. Prior to the Permittee's commencement of construction, the Permittee shall be responsible for obtaining all necessary federal and federally-delegated permits and any other approvals that may be required for the facility and which the Office is not empowered to provide or has expressly authorized. In addition, the Office expressly authorizes:

(1) The Public Service Commission (PSC) to require approvals, consents, permits, other conditions for the construction or operation of the facility under PSL Sections 68, 69, 70, and Article VII, as applicable, with the understanding that the PSC will not duplicate any issue already addressed by the Office and will instead only act on its police power functions related to the entity as described in the body of this siting permit;

(2) The New York State Department of Transportation (NYSDOT) to administer permits associated with oversize/overweight vehicles and deliveries, highway work permits, and associated use and occupancy approvals as needed to construct and operate the facility; and

(3) The pertinent agency to implement the New York State Uniform Fire Prevention and Building Code.

(e) Water Quality Certification. Prior to commencing construction, the Permittee shall request and obtain from the Office a water quality certification pursuant to Section 401 of the Clean Water Act, if required.

(f) Host Community Benefits. The Permittee shall provide host community benefits, such as Payments in Lieu of Taxes

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(PILOTS), other payments pursuant to a host community agreement, or other project(s) agreed to by the host community.

- (g) **Notice to Proceed with Construction.** The Permittee and its contractors shall not commence construction until a "Notice to Proceed with Construction" has been issued by the Office. Such Notice will be issued promptly after all applicable pre-construction compliance filings have been filed by the Permittee and approved by the Office. The Notice will not be unreasonably withheld. The Office may issue a conditional "Notice to Proceed with Site Preparation" for the removal of trees, stumps, shrubs and vegetation from the facility site as indicated on Office-approved site clearing plans to clear the facility site for construction, as well as setting up and staging of the laydown yard(s), including bringing in equipment, prior to the submission of all pre-construction compliance filings.
- (h) **Expiration.** The siting permit will automatically expire if the facility does not achieve commencement of commercial operation within seven (7) years from the date of issuance.
- (i) **Partial Cancellation.** If the Permittee decides not to commence construction of any portion of the facility, it shall so notify the Office promptly after making such decision. Such decisions shall not require a modification to the siting permit unless the Office determines that such change constitutes a major modification to the siting permit pursuant to 19 NYCRR § 900-11.1.
- (j) **Deadline Extensions.** The Office may extend any deadlines established by the siting permit for good cause shown. Any request for an extension shall be in writing, include a justification for the extension, and be filed at least fourteen (14) business days prior to the applicable deadline.
- (k) **Office Authority.** The Permittee shall regard New York State Department of Public Service (NYSDPS) staff, authorized pursuant to PSL § 66(8), as the Office's representatives in the field. In the event of any emergency resulting from the

specific construction or maintenance activities that violate, or may violate, the terms of the siting permit, compliance filings or any other supplemental filings, such NYSDPS staff may issue a stop work order for that location or activity pursuant to 19 NYCRR § 900-12.1.

5.2. Notifications

(a) **Pre-Construction Notice Methods.** At least fourteen (14) business days prior to the Permittee's commencement of construction date, the Permittee shall notify the public as follows:

- (1) Provide notice by mail to all persons residing within one (1) mile of a solar facility or within five (5) miles of a wind facility (**NOT APPLICABLE**);
- (2) Provide notice to local Town and County officials and emergency personnel;
- (3) Publish notice by mail in the local newspapers of record for dissemination, including at least one free publication, if available (e.g., Genesee Valley Pennysaver);
- (4) Provide notice for display in public places, which shall include, but not be limited to, the Town Halls of the host municipalities, at least one (1) library in each host municipality, at least one (1) post office in each host municipality, the facility website, and the facility construction trailers/offices; and
- (5) File notice with the Office for posting on the Office website.

(b) **Proof of Notice to Office.** At least fourteen (14) business days prior to commencement of construction, the Permittee shall file with the Office an affirmation that it has provided the notifications required by subdivision (a) of this section and include a copy of the notice(s), as well as a distribution list.

- (c) **Post-Construction Notice.** Prior to the completion of construction, the Permittee shall notify the entities identified in paragraphs (a)(1)-(5) of this section with the contact name, telephone number, email and mailing address of the facility operations manager, as well as all information required in subdivision (d)(1)-(2) and (4)-(7) of this section.
- (d) **Contents of Notice.** The Permittee shall write the notice(s) required in subdivisions (a) and of this section in plain language reasonably understandable to the average person and shall ensure that the notice(s) contain(s):
- (1) A map of the facility;
 - (2) A brief description of the facility;
 - (3) The construction schedule and transportation routes;
 - (4) The name, mailing address, local or toll-free telephone number, and email address of the appropriate facility contact for development, construction and operations;
 - (5) The procedure and contact information for registering a complaint;
 - (6) Contact information for the Office and the NYSDPS; and
 - (7) A list of public locations where information on the facility, construction, and the Permittee will be posted.
- (e) **Notice of Completion of Construction and Restoration.** Within fourteen (14) days of the completion of final post-construction restoration, the Permittee shall notify the NYSDPS, with a copy to the Office, that all such restoration has been completed in compliance with the siting permit and applicable compliance filings and provide an anticipated date of commencement of commercial operation of the facility.

5.3. General Requirements

- (a) **Local Laws.** The Permittee shall construct and operate the facility in accordance with the substantive provisions of the applicable local laws as identified in 19 NYCRR § 900-2.25, except for those provisions of local laws that the Office determined to be unreasonably burdensome, as stated in the siting permit.
- (b) **Federal Requirements.** The Permittee shall construct and operate the facility in a manner that conforms to all applicable federal and federally-delegated permits identified in 19 NYCRR § 900-2.26. If relevant facility plans require modifications due to conditions of federal permits, the final design drawings and all applicable compliance filings shall be revised accordingly and submitted for review and approval pursuant to 19 NYCRR § 900- 11.1.
- (c) **Traffic Coordination.** The Permittee shall coordinate with State, county, and local highway agencies to respond to and apply applicable traffic control measures to any locations that may experience any traffic flow or capacity issues.

5.4. Facility Construction and Maintenance

- (a) **Construction Hours.** Construction and routine maintenance activities on the facility shall be limited to 7 a.m. to 8 p.m. Monday through Saturday and 8 a.m. to 8 p.m. on Sunday and national holidays, with the exception of construction and delivery activities, which may occur during extended hours beyond this schedule on an as-needed basis.
 - (1) Construction work hour limits apply to facility construction, maintenance, and to construction- related activities, including maintenance and repairs of construction equipment at outdoor locations, large vehicles idling for extended periods at roadside locations, and related disturbances. This condition shall not apply to vehicles used for transporting construction or maintenance workers, small equipment, and tools used at the facility site for construction or

maintenance activities.

- (2) If, due to safety or continuous operation requirements, construction activities are required to occur beyond the allowable work hours, the Permittee shall notify the NYSDPS, the Office, affected landowners and the municipalities. Such notice shall be given at least twenty-four (24) hours in advance, unless such construction activities are required to address emergency situations threatening personal injury, property, or severe adverse environmental impact that arise less than twenty-four (24) hours in advance. In such cases, as much advance notice as is practical shall be provided.

(b) Environmental and Agricultural Monitoring.

- (1) The Permittee shall hire an independent, third-party environmental monitor to oversee compliance with environmental commitments and siting permit requirements. The environmental monitor shall perform regular site inspections of construction work sites and, in consultation with the NYSDPS, issue regular reporting and compliance audits.
- (2) The environmental monitor shall have stop work authority over all aspects of the facility. Any stop work orders shall be limited to affected areas of the facility. Copies of the reporting and compliance audits shall be provided to the host town(s) upon request.
- (3) The Permittee shall identify and provide qualifications and contact information for the independent, third-party environmental monitor to the NYSDPS, with a copy to the Office.
- (4) If the environmental monitor is not qualified, the Permittee shall also retain an independent, third-party agriculture-specific environmental monitor as required in 19 NYCRR § 900-6.4(s).

- (5) The Permittee shall ensure that its environmental monitor and agricultural monitor are equipped with sufficient access to documentation, transportation, and communication equipment to effectively monitor the Permittee's contractor's compliance with the provisions of the siting permit with respect to such Permittee's facility components and to applicable sections of the Public Service Law, Executive Law, Environmental Conservation Law, and Clean Water Act Section 401 Water Quality Certification.

(c) Pre-Construction Meeting. At least fourteen (14) days before the commencement of construction, the Permittee shall hold a pre-construction meeting with staff of the Office, NYSDPS, New York State Department of Environmental Conservation (NYSDEC), New York State Department of Agriculture and Markets (NYSAGM), New York State Department of Transportation (NYSDOT), municipal supervisors/mayors and highway departments, and county highway departments. The balance of plant (BOP) construction contractor, the agricultural monitor and environmental monitor shall be required to attend the pre-construction meeting.

- (1) An agenda, the location, and an attendee list shall be agreed upon between staff of the Office and the NYSDPS and the Permittee and distributed to the attendee list at least one (1) week prior to the meeting;
- (2) Maps showing designated travel routes, construction worker parking and access road locations and a general facility schedule shall be distributed to the attendee list at least one (1) week prior to the meeting;
- (3) The Permittee shall supply draft minutes from this meeting to the attendee list for corrections or comments, and thereafter the Permittee shall issue the finalized meeting minutes; and
- (4) If, for any reason, the BOP contractor cannot finish the construction of the facility, and one (1) or more new BOP contractors are needed, there shall be another

pre- construction meeting with the same format as outlined in this section.

(d) Construction Reporting and Inspections. During facility construction, the Permittee shall report construction status and support inspections as follows:

- (1) Every two (2) weeks, the Permittee shall provide NYSDPS and Office staff, and the host municipalities with a report summarizing the status of construction activities, and the schedule and locations of construction activities for the next two (2) weeks.
- (2) Prior to entry onto the facility site for on-site inspections, the Permittee shall conduct a tailgate meeting to communicate required safety procedures and worksite hazards to site inspectors.
- (3) The Permittee shall accommodate reviews of any of the following during a monthly inspection and at other times as may be determined by NYSDPS staff:
 - (i) The status of compliance with siting permit conditions;
 - (ii) Field reviews of the facility site;
 - (iii) Actual or planned resolutions of complaints;
 - (iv) Significant comments, concerns, or suggestions made by the public, municipalities, or other agencies and indicate how the Permittee has responded to the public, local governments, or other agencies; and
 - (v) The status of the facility in relation to the overall schedule established prior to the commencement of construction; and
 - (vi) Other items the Permittee, NYSDPS staff, or Office staff consider appropriate.

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- (4) After every monthly inspection, the Permittee shall provide the municipalities and agencies involved in the inspection with a written record of the results of the inspection, including resolution of issues and additional measures to be taken.
- (e) **Flagging.** At least two (2) weeks before tree clearing or ground disturbing activities, the Permittee shall stake or flag the planned limits of disturbance (LOD), the boundaries of any delineated NYS-regulated wetlands, waterbodies or streams in the LOD (as identified in the delineations prepared pursuant to 19 NYCRR §§ 900-1.3(e) and (f)), and any known archeological sites identified in the approved Cultural Resources Avoidance, Minimization and Mitigation Plan required in 19 NYCRR § 900-10.2(g), all on or off ROW access roads, limits of clearing and other areas needed for construction, including, but not limited to, turbine **(Not Applicable)** or solar array work areas, proposed infiltration areas for post-construction stormwater management, and laydown and storage areas. In addition, archeological sites shall be surrounded with construction fencing and a sign stating restricted access.
- (f) **Dig Safely NY.** Prior to the commencement of construction, the Permittee shall become a member of Dig Safely New York. The Permittee shall require all contractors, excavators, and operators associated with its facilities to comply with the requirements of the PSC's regulations regarding the protection of underground facilities at 16 NYCRR Part 753.
- (g) **Natural Gas Pipeline Cathodic Protection.** The Permittee shall contact all pipeline operators within the facility site and landowners, if necessary, on which facility components are to be located or whose property lines are within the zone of safe siting clearance, if any, and shall reach an agreement with each operator to provide that the facility's collection and interconnection systems will not damage any identified pipeline's cathodic protection system or produce damage to the pipeline, either with fault current or from a direct strike of lightning to the collection and interconnection systems, specifically addressing 16 NYCRR §255.467 (External

corrosion control; electrical isolation).

- (h) **Pole Numbering.** The Permittee shall comply with all requirements of the PSC's regulations regarding identification and numbering of above ground utility poles at 16 NYCRR Part 217.
- (i) **Fencing.** All mechanical equipment, including any structure for storage of batteries, shall be enclosed by fencing of a minimum height of seven (7) feet with a self-locking gate to prevent unauthorized access.
- (j) **Air Emissions.** To minimize air emissions during construction, the Permittee shall:
- (1) Prohibit contractors from leaving generators idling when electricity is not needed and from leaving diesel engines idling when equipment is not actively being used;
 - (2) Implement dust control procedures to minimize the amount of dust generated by construction activities in a manner consistent with the Standards and Specifications for Dust Control, as outlined in the New York State Standards and Specifications for Erosion and Sediment Control (see 19 NYCRR § 900-15.1(i)(1)(i));
 - (3) Use construction equipment powered by electric motors where feasible, or by ultra- low sulfur diesel; and
 - (4) Dispose or reuse cleared vegetation in such a way that minimizes greenhouse gas emissions (e.g., lumber production or composting).
- (k) **Construction Noise.** To minimize noise impacts during construction, the Permittee shall:
- (1) Maintain functioning mufflers on all transportation and construction machinery;
 - (2) Respond to noise and vibration complaints according to the complaint resolution protocol approved by the Office;

and

- (3) Comply with all substantive provisions of all local laws regulating construction noise unless they are waived.

(1) Visual Mitigation.

- (1) *Wind Facilities.* The Permittee shall implement the approved Visual Impacts Minimization and Mitigation Plan required in 19 NYCRR § 900-2.9, including the following:
(NOT APPLICABLE)

- (i) Adoption of visual design features requirements;
(NOT APPLICABLE)

- (ii) Visual contrast minimization and mitigation measures; **(NOT APPLICABLE)**

- (iii) Operational effects minimization measures, including shadow flicker minimization mitigation and other measures necessary to achieve a maximum of thirty (30) hours annually at any non-participating residential receptor, subject to verification using shadow prediction and operational controls at appropriate wind turbines;
(NOT APPLICABLE)

- (iv) Lighting Plan; **(NOT APPLICABLE)** and

- (v) Screen Planting Plans. **(NOT APPLICABLE)**

- (2) *Solar Facilities.* The Permittee shall implement the approved Visual Impacts Minimization and Mitigation Plan as required in 19 NYCRR § 900-2.9, including the following:

- (i) Visual contrast minimization and mitigation measures;

- (ii) Lighting Plan;

(iii) Solar glare mitigation requirements; and

(iv) Screen Planting Plans. **(See Site Specific Condition 6(d))**

(3) *Screen Planting Plans.* The Permittee shall retain a qualified landscape architect, arborist, or ecologist to inspect the screen plantings for two (2) years following installation to identify any plant material that did not survive, appears unhealthy, and/or otherwise needs to be replaced. The Permittee shall remove and replace plantings that fail in materials, workmanship or growth within two (2) years following the completion of installing the plantings. **(NOT APPLICABLE) (See Site Specific Condition 6(d))**

(m) General Environmental Requirements.

(1) *Limits of Disturbance (LOD).* Construction shall not directly disturb areas outside the construction limits shown on the design drawings.

(2) *Blasting.* Blasting shall be designed and controlled to meet the limits for ground vibration set forth in United States Bureau of Mines Report of Investigation 8507 Figure B-1 (see 19 NYCRR § 900- 15.1(k)(1)(i)) and air overpressure shall be under the limits set forth in the *Conclusion* Section in United States Bureau of Mines Report of Investigation 8485 (USBM RI 8507 and USBM RI 8485 (see 19 NYCRR § 900- 15.1(k)(1)(ii)) to protect structures from damage. **(NOT APPLICABLE)**

(3) *Karst.* Blasting operations in locations where geotechnical investigations confirm the presence of *subsurface* karst features shall be limited or performed under specific procedures recommended for those locations by a geotechnical engineer licensed to practice in the State of New York. **(NOT APPLICABLE)**

(4) *E&S Materials.* Permanent erosion control fabric or netting used to stabilize soils prior to establishment

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of vegetative cover or other permanent measures shall be one hundred (100) percent biodegradable natural product, excluding silt fence. Use of hay for erosion control or other construction-related purposes is prohibited to minimize the risk of introduction of invasive plant species.

- (5) *Spill Kits.* All construction vehicles and equipment shall be equipped with a spill kit. All equipment shall be inspected daily for leaks of petroleum, other fluids, or contaminants; equipment may *only* enter a stream channel if found to be free of any leakage. Any leaks shall be stopped and cleaned up immediately. Spillage of fuels, waste oils, other petroleum products or hazardous materials shall be reported to the NYSDEC's Spill Hotline within two (2) hours, in accordance with the NYSDEC Spill Reporting and Initial Notification Requirements Technical Field Guidance (see 19 NYCRR § 900-15.1(i)(1)(iii)). The Office and the NYSDEPS shall also be notified of all reported spills in a timely manner.
- (6) *Construction Debris.* Any *debris* or excess construction materials shall be removed to a facility duly authorized to receive such material. No burying of construction debris or excess construction materials is allowed.
- (7) *Clearing Areas.* Tree and vegetation clearing shall be limited to the minimum necessary for facility *construction* and operation, and as detailed on final construction plans.
- (8) *Clearing Methods.* *When* conducting clearing, *the* Permittee shall:
 - (i) Comply with the provisions of 6 NYCRR Part 192, Forest Insect and Disease Control, and ECL § 9-1303 and any quarantine orders issued thereunder;
 - (ii) Not create a maximum wood chip depth greater than three (3) inches, except for chip roads (if

applicable), nor store or dispose wood chips in wetlands, within stream banks, delineated floodways, or active agricultural fields;

(iii) Not dispose of vegetation or slash by burning anywhere or burying within a wetland or adjacent area; and

(iv) Coordinate with landowners to salvage merchantable logs and fuel wood. Where merchantable logs and fuel wood will not be removed from the facility site during clearing activities, final construction plans shall indicate locations of stockpiles to be established for removal from site or future landowner resource recovery.

(9) *Invasive Insects.* To control the spread of invasive insects, the Permittee shall provide training for *clearing* and construction crews to identify the Asian Longhorn Beetle and the Emerald Ash Borer and other invasive insects of concern as a potential problem at the facility site. If these insects are found, they shall be reported to the NYSDEC as soon as practicable.

(n) Water Supply Protection.

(1) *For wind facilities:* **(NOT APPLICABLE)**

(i) No wind turbine shall be located within one hundred (100) feet of an existing, active water supply well or water supply intake. **(NOT APPLICABLE)**

(ii) Blasting shall be prohibited within five hundred (500) feet of any known existing, active water supply well or water supply intake on a non-participating property. **(NOT APPLICABLE)**

(iii) The Permittee shall engage a qualified third party to perform pre- and post- construction testing of the potability of water wells within the below specified distances of construction disturbance

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before commencement of construction and after completion of construction to ensure the wells are not impacted, provided the Permittee is granted access by the property owner. **(NOT APPLICABLE)**

- a. Collection lines or access roads within one hundred (100) feet of an existing, active water supply well on a non-participating property; **(NOT APPLICABLE)**
- b. Blasting within one thousand (1,000) feet of an existing, active water supply well on a non-participating property; **(NOT APPLICABLE)** and
- c. Horizontal Directional Drilling (HDD) operations within five hundred (500) feet of an existing, active water supply well on a non-participating property. **(NOT APPLICABLE)**

(iv) Should the third-party testing, as required by subparagraph (iii) of this paragraph, conclude that the water supplied by an existing, active water supply well met federal (see 19 NYCRR § 900-15.1(j)(1)(i)) and state standards for potable water (see 10 NYCRR Part 75, Appendix 75-c) prior to construction, but failed to meet such standards after construction as a result of facility activities, the Permittee shall cause a new water well to be constructed, in consultation with the property owner, at least one hundred (100) feet from collection lines and access roads, and at least five hundred (500) feet from wind turbines, as practicable given siting constraints and landowner preferences. The results of such tests and reports shall be made available to the relevant municipalities upon request. **(NOT APPLICABLE)**

(2) *For solar facilities:*

- (i) Pier and post driving activities, except for fence and utility poles, shall be prohibited within one

hundred (100) feet of any existing, active drinking water supply well; use of earth screws is permitted.

(ii) If required, blasting shall be prohibited within five hundred (500) feet of any known existing, active water supply well or water supply intake on a non-participating property. **(NOT APPLICABLE)**

(iii) The Permittee shall engage a qualified third party to perform pre- and post- construction testing of the potability of water wells within the below specified distances of construction disturbance before commencement of civil construction and after completion of construction to ensure the wells are not impacted, provided the Permittee is granted access by the property owner:

a. Collection lines or access roads within one hundred (100) feet of an existing, active water supply well on a non-participating property;

b. Blasting within one thousand (1,000) feet of an existing, active water supply well on a non-participating property; **(NOT APPLICABLE)**

c. Pier or post installations within two hundred (200) feet of an existing, active water supply well on a non-participating property; and

d. HDD operations within five hundred (500) feet of an existing, active water supply well on a non-participating property.

(iv) Should the third-party testing conclude that the water supplied by an existing, active water supply well met federal (see 19 NYCRR § 900-15.1(j)(1)(i)) and state standards for potable water (see 10 NYCRR Part 75, Appendix 75-c) prior to construction, but failed to meet such standards post construction as a result of facility

activities, the Permittee shall cause a new water well to be constructed, in consultation with the property owner, at least one hundred (100) feet from collection lines and access roads, and at least two hundred (200) feet from all other facility components. The results of such tests and reports shall be made available to the relevant municipalities upon request.

(o) Threatened and Endangered Species.

(1) For facilities that would impact NYS threatened or endangered species other than NYS threatened or endangered grassland birds or their habitat, the Permittee shall implement an approved Net Conservation Benefit Plan (NCBP) that shall include the following:
(NOT APPLICABLE)

(i) A demonstration that the NCBP results in a positive benefit on each of the affected species; **(NOT APPLICABLE)**

(ii) Detailed explanation of the net conservation benefit to the species based on the actual location and type of minimization measures to be taken for each of the affected species; **(NOT APPLICABLE)**

(iii) Full source information supporting a determination as to the net conservation benefit for each of the affected species; **(NOT APPLICABLE)**

(iv) A consideration of potential minimization and mitigation measures for each of the affected species; **(NOT APPLICABLE)**

(v) A consideration of potential sites for mitigation measures for each of the affected species; **(NOT APPLICABLE)**

(vi) The identification and detailed description of the mitigation actions that will be undertaken by the

Permittee to achieve a net conservation benefit to the affected species, including, if applicable, payment of a required mitigation fee into the Endangered and Threatened Species Mitigation Fund established pursuant to section 99(hh) of the New York State Finance Law; **(NOT APPLICABLE)** and

(vii) To the extent that physical mitigation will be performed, a letter or other indication of the Permittee's financial and technical capability and commitment to fund and execute such management, maintenance and monitoring for the life of the facility/term of the siting permit. **(NOT APPLICABLE)**

(2) For facilities determined pursuant to the procedures set forth in § 900-2.13(e)(2) to have de minimis impacts to NYS threatened or endangered grassland birds: **(NOT APPLICABLE)**

(i) If an active nest is identified within the facility site prior to or during construction, and the facility results in adverse impacts to the nest or grasslands twenty-five (25) acres or more in size that were previously (during pre-application) or newly (prior to or during construction) determined to be occupied habitat, then the Permittee shall coordinate with the NYSDPS and the Office to adjust the limits of disturbance and/or adjust the construction schedule to avoid work in the area until nesting has been completed or the Permittee shall pay into the Endangered and Threatened Species Mitigation Bank Fund the required mitigation fee commensurate with the actual acreage taken. **(NOT APPLICABLE)**

(3) For facilities that will have more than a de minimis impact on NYS threatened or endangered grassland birds, the Permittee shall implement the following as part of the NCBP: **(NOT APPLICABLE)**

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- (i) The Permittee shall implement environmental monitoring immediately prior to and during construction in the occupied habitat to search for NYS threatened or endangered species occurrence based on the species' seasonal windows for presence. **(NOT APPLICABLE)**

- (ii) If active nests of the NYS threatened or endangered species are found within the occupied habitat, then the Permittee shall coordinate with the NYSDPS and the Office to adjust the limits of disturbance and/or adjust the construction schedule to avoid work in the area until nesting has been completed. **(NOT APPLICABLE)**

- (iii) To avoid direct impacts to NYS threatened or endangered grassland bird species, the following work windows apply for all ground disturbance and construction-related activities, including restoration and equipment/component staging, storage, and transportation, within occupied habitat: **(NOT APPLICABLE)**
 - a. In NYS threatened or endangered grassland bird occupied breeding habitat, work shall be conducted only between August 16 and April 22; **(NOT APPLICABLE)**

 - b. In NYS threatened or endangered grassland bird occupied wintering habitat, work shall be conducted only between April 1 and November 14; **(NOT APPLICABLE)**

 - c. In areas of the facility where both breeding and wintering occupied habitat occurs, work shall be conducted only between August 16 and November 14, and between April 1 and 22. **(NOT APPLICABLE)**

- (iv) If fields within identified occupied breeding habitat are planted with row crops (e.g., corn,

beans, or vegetables) in the farming season prior to the commencement of facility construction and such fields were historically used for row crops during at least one of the prior five (5) years, these fields will not be subject to the construction timing restrictions set forth in subparagraphs (iii)(a) and (c) of this paragraph.

(NOT APPLICABLE)

- (v) If the Permittee has identified construction activities that must occur between November 15 and March 31 in identified NYS threatened or endangered grassland bird occupied wintering habitat, or between April 23 and August 15 in identified NYS threatened or endangered grassland bird occupied breeding habitat outside of row crop areas described above, the occupied habitat area(s) proposed for active construction shall be assessed by an on-site environmental monitor or biologist who shall conduct surveys for NYS threatened or endangered grassland bird species. The surveys shall occur weekly until construction activities have been completed in the occupied habitat area, unless otherwise agreed to by the Office. If no NYS threatened or endangered grassland bird species are detected during the survey, the area shall be considered clear for seven (7) days, when another survey shall be performed. If NYS threatened or endangered grassland bird species are detected, the Permittee shall comply with subdivision (o)(7) of this section. **(NOT APPLICABLE)**
- (vi) All temporary disturbance or modification of established grassland vegetation communities that occurs as a result of facility construction, restoration, or maintenance activities shall be restored utilizing a native herbaceous seed mix or the pre-existing grassland vegetative conditions by re-grading and re-seeding with an appropriate native seed mix after disturbance activities are completed, unless returning to agricultural

production or otherwise specified by the landowner. These temporarily disturbed or modified areas include all areas within the facility site that do not have impervious cover, such as temporary roads, material and equipment staging and storage areas, and electric line rights of way. **(NOT APPLICABLE)**

(vii) The Permittee shall implement the avoidance and minimization measures identified in 19 NYCRR § § 900-2.13 and the other conditions herein to minimize potential take of the species. **(NOT APPLICABLE)**

(viii) To the extent that the Office has determined that the facility would result in impacts to grassland bird occupied habitat requiring mitigation, the Permittee shall pay the required mitigation fee commensurate with the actual acreage of occupied habitat taken into the Endangered and Threatened Species Mitigation Bank Fund with the sole purpose to conserve habitat of similar or higher quality or otherwise achieve a net conservation benefit to the impacted species. **(NOT APPLICABLE)**

(ix) If the Permittee proposes an NCBP involving Permittee-implemented grassland bird habitat conservation in lieu of payment of a mitigation fee pursuant to subparagraph (viii) of this paragraph, the required mitigation ratio shall be 0.4 acres of mitigation for every acre of occupied grassland bird breeding habitat determined to be taken and 0.2 acres of mitigation for every acre of occupied grassland bird wintering habitat determined to be taken. These mitigation requirements are based upon multiplying impacts by the ratios described above and dividing impacts by five lifecycles of habitat succession (e.g., a 30-year mitigation project term and 5-year timeframe in which unmanaged grassland would naturally succeed into scrub/shrub habitat, minus one lifecycle to provide a net conservation

benefit). **(NOT APPLICABLE)**

(4) For facilities that will impact NYS threatened or endangered bat species, the Permittee shall implement the following as part of the NCBP:

(i) No facility component shall be sited or located within one hundred fifty (150) feet of any known northern long-eared bat maternity roost, within five hundred (500) feet of any known Indiana bat maternity roost, or one quarter (0.25) mile of any known northern long-eared bat or Indiana bat hibernaculum.

(ii) If at any time during the life of the facility, an active NYS threatened or endangered bat species maternity colony roost tree (or structure) is discovered within the facility site, the NYSDPS and the Office shall be notified within twenty-four (24) hours of discovery (during construction) and forty-eight (48) hours of discovery (during operation), and the colony site shall be marked. A five hundred (500)-foot radius around the colony shall be posted and avoided until notice to continue construction, ground clearing, grading, non-emergency maintenance or restoration activities, as applicable, at that site is granted by the NYSDPS or the Office. A re-evaluation of the potential impacts of the Project on listed bat species shall be provided to the NYSDPS and Office.

(iii) Tree Clearing Limitations for Northern Long-eared Bats:

a. No tree clearing activities shall occur at any time within one hundred fifty (150) feet of any known maternity roost or one quarter (0.25) mile of any known hibernaculum.

b. All tree clearing activities (except for hazard tree removal to protect human life or

property) occurring within one and a half (1.5) miles of a maternity roost site or five (5) miles of a hibernaculum site, but not subject to clause (a) of this subparagraph, shall be conducted during the hibernation season (between November 1 and March 31) without further restrictions unless otherwise approved by the Office. This limitation does not include trees less than or equal to four (4) inches in diameter at breast height (DBH).

c. From April 1 to October 31, the following restrictions shall be implemented for all tree clearing activities in the facility site, unless otherwise agreed by the Office:

1. The Permittee shall leave uncut all snag and cavity trees, as defined under the NYSDEC Program Policy ONRDLF-2 Retention on State Forests, unless their removal is necessary for protection of human life and property. This restriction pertains to trees that are greater than or equal to four (4) inches DBH. When necessary, snag or cavity trees may be removed after being cleared by an environmental monitor who shall conduct a survey for bats exiting the tree. This survey shall begin thirty (30) minutes before sunset and continue until at least one (1) hour after sunset or until it is otherwise too dark to see emerging bats. Unoccupied snag and cavity trees in the approved clearing area shall be removed within forty-eight (48) hours of observation.

2. If any bats are observed flying from a tree, or from a tree that has been cut, tree clearing activities within distances required in clause (a) of this subparagraph, depending on the potential

species present, shall be suspended and the NYSDPS and the Office shall be notified as soon as possible. The Permittee shall have an environmental monitor present on site during all tree clearing activities. If any bat activity is noted, a stop work order will immediately be issued and shall remain in place until such time as the NYSDPS and the Office have been consulted and authorize resumption of work.

(iv) Tree Clearing Limitations for Indiana Bats. **(NOT APPLICABLE)**

a. No tree clearing activities shall occur at any time within five hundred (500) feet of any known maternity roost or one quarter (0.25) mile of any known hibernaculum. **(NOT APPLICABLE)**

b. All tree clearing activities (except for hazard tree removal to protect human life or property) occurring within two and a half (2.5) miles of a maternity roost site or hibernaculum site, but not subject to clause (a) of this subparagraph, shall be conducted during the hibernation season (between November 1 and March 31), without further restrictions unless otherwise approved by the Office. This limitation does not include trees less than or equal to four (4) inches in DBH or locations above three hundred (300) meters in elevation. **(NOT APPLICABLE)**

c. From April 1 to October 31, tree clearing within two and a half (2.5) miles of a maternity roost site or hibernaculum site is limited to trees less than or equal to four (4) inches in DBH or locations above three hundred (300) meters in elevation. **(NOT APPLICABLE)**

APPLICABLE)

- d. Tree clearing may not reduce forest habitat below thirty-five (35) percent of the landcover within two and a half (2.5) miles of the maternity roost site or hibernaculum site.
(NOT APPLICABLE)

- (v) To minimize impacts to bats from wind facilities, the Permittee shall comply with the following requirements: **(NOT APPLICABLE)**

- a. Curtailment is required for all wind facilities from July 1 - October 1 when wind speeds are at or below five and a half (5.5) m/s and temperatures are at or above ten (10) degrees Celsius (fifty (50) degrees Fahrenheit) from thirty (30) minutes before sunset to thirty (30) minutes after sunrise. Curtailment shall be on an individual turbine basis and shall be determined by weather conditions as measured by each individual weather station on the turbine nacelle. **(NOT APPLICABLE)**

- b. The Permittee shall submit a review of curtailment operations to the Office as part of the post-construction bat mortality monitoring requirements set forth in the NCBP or every five (5) years (or sooner if requested by the Permittee). The review shall assess if changes in technology or knowledge of impacts to bats supports modification of the existing curtailment regime. Modifications to the existing curtailment regime that further decrease mortality may be proposed or negotiated. Any such modifications shall not be costlier than the existing curtailment regime, unless voluntarily supported by the Permittee. **(NOT APPLICABLE)**

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- (5) For each applicable NCBP, the Permittee shall pay the required mitigation fee into the Endangered and Threatened Species Mitigation Bank Fund commensurate with the anticipated number of individuals taken with the sole purpose to achieve a net conservation benefit to the impacted species. **(NOT APPLICABLE)**
- (6) To avoid and minimize impacts to bald eagles, the Permittee shall implement the following:
- (i) If, at any time during construction and operation of the facility, an active bald eagle nest or roost is identified within the facility site, the NYSDPS and the Office shall be notified within forty-eight (48) hours of discovery and prior to any disturbance of the nest or immediate area. An area one quarter (0.25) mile for nests without a visual buffer and six hundred sixty (660) feet in radius for nests with a visual buffer from the nest tree shall be posted and avoided to the maximum extent practicable until notice to continue construction at that site is granted by the NYSDPS and the Office.
 - (ii) Tree removal is not allowed:
 - a. Within six hundred sixty (660) feet from an active nest during breeding season (January 1 - September 30);
 - b. Within one quarter (0.25) mile from an important winter roost during the wintering period (December 1 - March 31); or
 - c. Of overstory trees within three hundred thirty (330) feet of an active nest at any time.
 - (iii) Operational Impacts from Wind Facilities. If at any time during the operation of the facility a bald eagle is injured or killed due to collision with project components, the Permittee shall pay the

required mitigation fee into the Endangered and Threatened Species Mitigation Bank Fund commensurate with number of eagles taken with the sole purpose to achieve a net conservation benefit to the impacted species. **(NOT APPLICABLE)**

(7) *Record All Observations of NYS Threatened or Endangered Species.* During construction and restoration of the facility and associated facilities, the Permittee shall maintain a record of all observations of NYS threatened or endangered species as follows:

- (i) *Construction.* During construction, the on-site environmental monitor shall be responsible for recording all occurrences of NYS threatened or endangered species within the facility site. All occurrences shall be reported in a biweekly monitoring report submitted to the NYSDPS, with a copy to the Office, and such reports shall include the information described in subparagraph (iii) of this paragraph. If a NYS threatened or endangered bird species is demonstrating breeding behavior, it shall be reported to the NYSDPS and the Office within forty-eight (48) hours.
- (ii) *Restoration.* After construction is complete, incidental observations of any NYS threatened or endangered species shall be documented and reported to the NYSDPS, with a copy to the Office, in accordance with the reporting requirements in subparagraph (iii) of this paragraph.
- (iii) *Reporting Requirements.* All reports of NYS threatened or endangered species shall include the following information: species; number of individuals; age and sex of individuals (if known); observation date(s) and time(s); Global Positioning System (GPS) coordinates of each individual observed (if operation and maintenance staff do not have GPS available, the report shall include the nearest turbine number **(Not Applicable)** or solar

panel array and cross roads location); behavior(s) observed; identification and contact information of the observer(s); and the nature of and distance to any facility construction, maintenance or restoration activity.

(8) *Discovery of Nests or Dead or Injured NYS Threatened or Endangered Bird Species.*

(i) Excluding Bald Eagles, if an active nest of a federal or NYS threatened or endangered bird species is discovered (by the Permittee's environmental monitor or other designated agents) within the facility site, the following actions shall be taken:

a. The NYSDPS and the Office shall be notified within forty-eight (48) hours of discovery and prior to any further disturbance around the nest, roost, or area where the species were seen exhibiting any breeding or roosting behavior;

b. An area at least five hundred (500) feet in radius around the active nest shall be posted and avoided until notice to continue construction, ground clearing, grading, maintenance or restoration activities are granted by the Office; and

c. The active nest(s) or nest tree(s) shall not be approached under any circumstances unless authorized by the Office.

(ii) If any dead or injured federal or NYS threatened or endangered bird species, or eggs or nests thereof, are discovered by the Permittee's on-site environmental monitor or other designated agent at any time during the life of the facility, the Permittee shall immediately (within 24 hours) contact the NYSDEC and the United States Fish and

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Wildlife Service (USFWS) for federally-listed species, to arrange for recovery and transfer of the specimen(s). The NYSDPS and the Office shall also be notified. The following information pertaining to the find shall be recorded:

- a. Species;
- b. Age and sex of the individual(s), if known;
- c. Date of discovery of the animal or nest;
- d. Condition of the carcass, or state of the nest or live animal;
- e. GPS coordinates of the location(s) of discovery;
- f. Name(s) and contact information of the person(s) involved with the incident(s) and find(s);
- g. Weather conditions at the facility site for the previous forty-eight (48) hours;
- h. Photographs, including scale and of sufficient quality to allow for later identification of the animal or nest; and
- i. An explanation of how the mortality/injury/damage occurred, if known.

Electronic copies of each record, including photographs, shall be kept with the container holding the specimen(s) and given to the NYSDEC or the USFWS at the time of transfer. If the discovery is followed by a non-business day, the Permittee shall ensure all the information listed above is properly documented and stored with the specimen(s). Unless otherwise directed by the NYSDEC or the USFWS, after all information has been

collected in the field, the fatality specimen(s) shall be placed in a freezer, or in a cooler on ice until transported to a freezer, until it can be retrieved by the proper authorities.

(9) The provisions of subdivision (o) of this section shall remain in effect for as long as the relevant species is listed as endangered or threatened in New York State.

(p) **Wetlands, Waterbodies, and Streams.** The Permittee shall implement the following procedures for construction within wetlands and adjacent areas subject to ECL Article 24, and waterbodies and streams regulated pursuant to ECL Article 15 **(NOT APPLICABLE)** (as identified in the delineations approved by the Office pursuant to 19 NYCRR §§ 900-1.3(e) and (f)):

(1) Environmentally Sensitive Area (ESA) Flagging. Prior to performing construction in an ESA, defined herein as any NYS-regulated wetlands, waterbodies or streams and associated adjacent areas identified in the delineations approved by the Office pursuant to 19 NYCRR §§ 900-1.3(e) and (f), the Permittee shall mark the boundaries of the ESA with colored flagging, "protected area" signs, or erosion and sediment control measures specified by the SWPPP. As necessary to prevent access by motorized vehicles into ESAs where no construction is planned, the Permittee shall install additional markers or signs stating, "No Equipment Access".

(2) Equipment Maintenance and Refueling. Equipment storage, refueling, maintenance, and repair shall be conducted and safely contained more than one hundred (100) feet from all wetlands, waterbodies, and streams and stored at the end of each workday unless moving the equipment will cause additional environmental impact. Dewatering pumps operating within one hundred (100) feet of wetlands, waterbodies, or streams may be refueled in place and shall be within a secondary containment large enough to hold the pump and accommodate refueling. All mobile equipment, excluding dewatering pumps, shall be fueled in a location at least one hundred (100) feet

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from wetlands, waterbodies and streams unless moving the equipment will cause additional environmental impact.

- (3) Fuel Storage. Fuel or other chemical storage containers shall be appropriately contained and located at least three hundred (300) feet from wetlands, waterbodies, and streams.
- (4) Clean Fill. All fill shall consist of clean soil, sand and/or gravel that is free of the following substances: asphalt, slag, fly ash, demolition debris, broken concrete, garbage, household refuse, tires, woody materials, and metal objects. Reasonable efforts shall be made to use fill materials that are visually free of invasive species based on onsite and source inspections. The introduction of materials toxic to aquatic life is expressly prohibited.
- (5) Turbid Water. Turbid water resulting from dewatering operations shall not be allowed to enter any wetland, waterbody, or stream. Water resulting from dewatering operations shall be discharged directly to settling basins, filter bags, or other approved device. All necessary measures shall be implemented to prevent any substantial visible contrast due to turbidity or sedimentation downstream of the work site.
- (6) Truck Washing. Washing of trucks and equipment shall occur one hundred (100) feet or more from an ESA, and waste concrete and water from such activities shall be controlled to avoid it flowing into a wetland or adjacent area, waterbody or stream. If runoff from such activities flows into any wetlands and adjacent areas subject to ECL Article 24, or waterbodies and streams regulated pursuant to ECL Article 15 **(NOT APPLICABLE)**, the NYSDEC Regional Supervisor of Natural Resources shall be contacted within two (2) hours.
- (7) Concrete Washouts. Concrete washouts and batch plants, or concrete from truck cleanout activity, any wash water from trucks, equipment, or tools, if done on site, shall

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be located and installed to minimize impacts to water resources. Locations should be at least one hundred (100) feet from any wetland, waterbody or stream, and located outside wetland adjacent areas to the maximum extent practicable. Disposal of waste concrete or wash water shall be at least one hundred (100) feet from any wetland, waterbody or stream.

- (8) Use of Horizontal Direction Drilling. Installation of underground collection lines across wetlands, waterbodies and streams shall be performed via HDD to the maximum extent practicable.
 - (9) Trenching. Open cut trenching in wetlands, waterbodies and streams shall be conducted in one continuous operation and shall not exceed the length that can be completed in one (1) day.
 - (10) Inadvertent Return Flows. HDD under wetlands, waterbodies and streams shall be performed in accordance with the inadvertent return flow plan required pursuant to 19 NYCRR § 900-10.2(f) (5).
 - (11) Discharge Notice and Response. The Permittee shall notify the NYSDEC, the Office and the NYSDPS within two (2) hours if there is a discharge to an area regulated under Articles 15 or 24 of the ECL resulting in a violation of New York Water Quality Standards at 6 NYCRR Part 703. The Permittee shall immediately stop work until authorized to proceed by the Office.
- (q) **Wetlands.** The Permittee shall implement the following requirements for freshwater wetlands and adjacent areas subject to ECL Article 24:
- (1) Construction in Wetlands and Adjacent Areas. All construction activities completed within wetlands and/or adjacent areas shall adhere to the following requirements:
 - (i) In breeding areas for NYS threatened or endangered

amphibian species, construction should not occur during the peak amphibian breeding season (April 1 to June 15) unless additional measures are implemented to prevent impacts or exclude species from the workspace, such as silt fences. **(NOT APPLICABLE)**

- (ii) Work should be conducted during dry conditions without standing water or when the ground is frozen, where practicable.
- (iii) Excavation, installation, and backfilling in wetlands shall be performed in one continuous operation.
- (iv) Temporary construction matting shall be used as necessary to minimize disturbance to the wetland soil profile during all construction and maintenance activities. All temporary construction matting shall be removed as soon as practicable but no later than four months following installation from the wetland and cleaned of any invasive species (seed, plant materials, insects, etc.) after construction/maintenance activities are completed and removal shall be verified with the on-site environmental monitor after construction. Matting shall be removed by equipment stationed on a mat or areas outside the wetland or adjacent area.
- (v) In the event that construction results in an unanticipated alteration to the hydrology of a wetland (i.e., lowering), the breach shall be immediately sealed, and no further activity shall take place until the NYSDPS and the Office is notified and a remediation plan to restore the wetland and prevent future dewatering of the wetland has been approved.
- (vi) Before trenching occurs, upland sections of the trench shall be backfilled or plugged to prevent drainage of possible turbid trench water from

entering the wetland.

- (vii) Trench breakers/plugs shall be used at the edges of wetlands as needed to prevent wetland draining during construction.
- (viii) In wetland areas, the topsoil shall be removed and stored separate from subsoil. The top twelve (12) inches of wetland topsoil shall be removed first and temporarily placed onto a geo-textile blanket.
- (ix) Only the excavated wetland topsoil and subsoil shall be utilized as backfill, with the exception of clean bedding material for electrical collection lines and/or conduits, provided there is no change to the pre-construction contours upon restoration; and trench-breakers are used to prevent draining the wetland.
- (x) Subsoil dug from the trench shall be sidecast on the opposite side of the trench on another geo-textile blanket running parallel to the trench, if necessary.
- (xi) Trenches shall be backfilled with the wetland subsoil and the wetland topsoil shall be placed back on top. All excess materials shall be completely removed to upland areas more than one hundred (100) feet from the wetland and suitably stabilized.
- (xii) When backfilling occurs, the subsoil shall be replaced as needed, and then covered with the topsoil, such that the restored topsoil is the same depth as prior to disturbance.
- (xiii) All disturbed soils within wetlands and adjacent areas shall be seeded with an appropriate native wetland seed mix, shrubs, live stakes, or tree planting as site conditions and design allow,

as appropriate for existing land uses. Straw mulch shall be maintained until the disturbed area is permanently stabilized. Hay shall not be used for mulching of wetlands or adjacent areas.

(xiv) In agricultural or farmed wetlands, crop covers consistent with existing agricultural uses shall be utilized in all areas of soil disturbance.

(xv) Installation of underground collection lines in wetlands shall be performed using the following methods:

- a. The Permittee shall implement best management practices to minimize soil compaction;
- b. During excavation, all topsoil shall be stripped and segregated from subsoils. The Permittee shall consolidate trenching areas to the maximum extent practicable to minimize impacts to agricultural soils;
- c. All reasonable efforts shall be made to backfill open trenches within the same workday if rain is predicted and as soon as practicable otherwise; and
- d. All excess materials shall be completely removed from wetlands to upland areas. Excess topsoil from agricultural areas shall be spread within the immediate agricultural areas within the approved LOD, or within other nearby areas that will still be used for agricultural production.

(2) *Wetland Restoration.*

- (i) Wetland restoration shall be completed according to the approved Wetland Restoration and Mitigation Plan submitted pursuant to 19 NYCRR § 900-10.2(f)(2).

- (ii) The Permittee shall restore disturbed areas, ruts, and rills within of NYSDEC- regulated wetlands and adjacent areas to original grades and conditions with permanent native re- vegetation and erosion controls appropriate for those locations.
 - (iii) Restoration of temporary impacts to NYS-regulated wetlands and adjacent areas (as delineated pursuant to 19 NYCRR § 900-1.3(e)) to pre-construction contours shall be completed within forty-eight (48) hours of final backfilling of the trench/excavated areas and restored to pre-construction contours as soon as practicable.
 - (iv) Immediately upon completion of grading, and as consistent with existing land use/land cover, the area shall be seeded with an appropriate native species mix for wetlands and upland areas adjacent to wetlands, except that adjacent areas may be reseeded differently at the request of the landowner.
 - (v) The Permittee shall attain eighty (80) percent vegetative cover across all disturbed soil areas by the end of the first full growing season following construction. Overall vegetative cover in restored areas shall be monitored for a minimum of five (5) years. Post- construction monitoring shall continue until an eighty (80) percent survivorship of native woody species or eighty-five (85) percent absolute cover of native herbaceous species appropriate wetland indicator status has been reestablished over all portions of the replanted area, unless the invasive species baseline survey indicates a smaller percentage of survivorship or cover of appropriate native species exists prior to construction.
- (3) *Cut Vegetation.* Cut vegetation in wetlands, with the exception of invasive species, may be left in place

(i.e., drop and lop or piled in dry or seasonally saturated portions of wetlands and adjacent areas to create wildlife brush piles).

(4) *Access Roads Through Wetlands.* Installation of access roads through wetlands shall be performed using the following methods:

(i) Temporary access roads shall use timber/construction matting that is completely removed after construction/maintenance activities are completed and removal shall be verified with the NYSDPS by the on-site environmental monitor after construction, or by the facility operator after maintenance work is completed.

(ii) Permanent access roads shall use a layer of geotextile fabric and a minimum of six (6) inches of gravel shall be placed in the location of the wetland crossing after vegetation and topsoil is removed. Access roads shall be designed and constructed to adequately support the type and frequency of the anticipated vehicular traffic and include suitable culverting or other drainage infrastructure as needed to minimize the impact to wetland hydrology.

(5) *Solar Panel Support Installation.* Installation and construction techniques shall minimize the disturbance of the wetland soil profiles (e.g., the use of helical screws and driven H-pile with no backfilling for solar arrays sites in wetlands).

(6) *Tree Clearing.* Tree clearing shall be minimized to the extent practicable in wetlands and adjacent areas.

(7) *Fill Placement.* The placement of fill in wetlands shall be designed to maintain pre-construction surface water flows/conditions between remaining on- or off-site waters and to prevent draining of the wetland or permanent hydrologic alteration. This may require the

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use of culverts and/or other measures. Construction activity and final design shall not restrict or impede the passage of normal or expected high flows.

(8) *Concrete Use.* For activities involving the placement of concrete into regulated wetlands, watertight forms shall be used. The forms shall be dewatered prior to the placement of the concrete. The use of tremie-supplied concrete is allowed if it complies with NYS water quality standards.

(9) *Stormwater Setback.* Any new stormwater management infrastructure shall be located outside of the wetland and adjacent area to the extent practicable.

(10) *Mitigation.* The Permittee shall implement the approved Wetland Restoration and Mitigation Plan submitted pursuant to 19 NYCRR § 900-10.2(f)(2).

(r) **Work in NYS-protected waters.** The Permittee shall implement the following **(NOT APPLICABLE)**:

(1) *Dry Conditions.* In-stream work shall only occur in dry conditions, using appropriate water handling measures to isolate work areas and direct stream flow around the work area. Any waters accumulated in isolated work areas shall be discharged to an upland settling basin, field, or wooded area to provide for settling and filtering of solids and sediment before water is returned to the stream. If measures fail to divert all flow around the work area, in-stream work shall stop until dewatering measures are functioning properly. **(NOT APPLICABLE)**

(2) *In-Water Work Windows.* In-stream work shall be prohibited from September 15 through May 31 in cold water fisheries and March 15 through July 15 in warm water fisheries unless the Permittee receives site specific approval from the Office. **(NOT APPLICABLE)**

(3) *Stream Channels.* The restored stream channel shall be equal in width, depth, gradient, length and character to

the pre-existing stream channel and tie in smoothly to the profile of the stream channel upstream and downstream of the disturbance. The planform of any permanent stream shall not be changed, unless dictated by restoration or mitigation objectives. All disturbed stream banks shall be mulched within two (2) days of final grading, stabilized with one hundred (100) percent natural or biodegradable fiber matting, and seeded with an appropriate riparian seed mix. **(NOT APPLICABLE)**

(4) Felled Trees in an ESA. Trees shall not be felled into an ESA stream or its stream bank. Snags which provide shelter in streams for fish shall not be disturbed unless they cause serious obstructions, scouring or erosion. **(NOT APPLICABLE)**

(5) Culvert Repairs. If a culvert is blocked or crushed, or otherwise damaged by construction or maintenance activities, the Permittee shall repair the culvert or replace it with alternative measures appropriate to maintaining proper drainage, embedment and aquatic connectivity. **(NOT APPLICABLE)**

(6) Access Road Crossings of Streams. The creation, modification or improvement of any permanent road crossing of a NYS-protected waterbody shall meet the following requirements: **(NOT APPLICABLE)**

(i) New culvert pipes that the Permittee is required to install shall be designed to safely pass the one (1) percent annual chance storm event; **(NOT APPLICABLE)**

(ii) Culvert pipes shall be embedded beneath the existing grade of the stream channel; **(NOT APPLICABLE)**

(iii) Width of the structure shall be a minimum of one and a quarter (1.25) times the width of the mean high-water channel, as practicable; **(NOT APPLICABLE)** and

- (iv) The culvert slope shall remain consistent with the slope of the adjacent stream channel. For slopes greater than three (3) percent, an open bottom culvert shall be used. **(NOT APPLICABLE)**
- (7) Overhead Lines Across NYSDEC-Protected Streams. If construction of overhead power line crossings requires cutting of trees or shrubs within fifty (50) feet of a NYS-protected waterbody: **(NOT APPLICABLE)**
- (i) Cut materials shall be left on the ground; **(NOT APPLICABLE)** and
- (ii) Stumps and root systems shall not be damaged to facilitate stump sprouting. **(NOT APPLICABLE)**
- (8) Stream Flows. During periods of work activity, flow immediately downstream of the work site shall equal flow immediately upstream of the work site. If measures fail to divert all flow around the work area, in-stream work shall stop until dewatering measures are functioning properly. **(NOT APPLICABLE)**
- (9) No Aquatic Impediments. In-stream work, including the installation of structures and bed material, but excluding dewatering associated with dry trench crossings, shall not result in an impediment to aquatic organisms. All fish trapped within cofferdams shall be netted and returned, alive and unharmed, to the water outside the confines of the cofferdam, in the same stream. **(NOT APPLICABLE)**
- (10) Drop Height. Any in-stream structures placed in a stream shall not create a drop height greater than six (6) inches. **(NOT APPLICABLE)**
- (11) Restoration and Mitigation. The Permittee shall implement the approved Stream Restoration and Mitigation Plan submitted pursuant to 19 NYCRR § 900-10.2(f)(3). **(NOT APPLICABLE)**

(s) Agricultural Resources.

- (1) In all instances in which the applicant for a solar facility proposes to permanently or temporarily impact active agricultural lands (i.e., land in active agriculture production defined as active three (3) of the last five (5) years) within NYS Agricultural Land Classified Mineral Soil Groups 1 through 4, the Permittee shall:
- (i) Construct the facility consistent with the NYSAGM "Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands", dated 10/18/2019 (see 19 NYCRR § 900-15.1(1)(1)(i)), to the maximum extent practicable; and
 - (ii) Hire an independent, third-party agricultural monitor to oversee compliance with agricultural conditions and requirements, including the approved Agricultural Plan required pursuant to 19 NYCRR § 900-2.16(c), the approved Remediation Plan required pursuant to 19 NYCRR § 900-2.16(d) and any approved co-utilization plan prepared according to 19 NYCRR § 900-2.16(e). The Office, in consultation with the NYSAGM, shall verify and approve the qualifications required to fulfill the role of the agricultural monitor have been met. If the Office, in consultation with the NYSAGM, agrees that the independent third-party monitor is qualified on agricultural issues, one monitor can act as both the general environmental monitor as well as the agricultural-specific environmental monitor.
- (2) In all instances in which the applicant for a wind facility proposes to permanently or temporarily impact active agricultural lands (i.e., land in active agriculture production defined as active three (3) of the last five (5) years) within NYS Agricultural Land Classified Mineral Soil Groups 1 through 4, the Permittee shall: **(NOT APPLICABLE)**

- (i) Construct the facility consistent with the NYSAGM "Guidelines for Agricultural Mitigation for Wind Power Projects", revised 4/19/2018 (see 19 NYCRR § 900- 15.1(1)(1)(ii)), to the maximum extent practicable; **(NOT APPLICABLE)** and
 - (ii) Hire an independent, third-party agricultural monitor to oversee compliance with agricultural conditions and requirements, including the approved Agricultural Plan required pursuant to 19 NYCRR § 900-2.16(c) and the approved Remediation Plan required pursuant to 19 NYCRR § 900-2.16(d). The Office, in consultation with the NYSAGM, shall verify and approve the qualifications required to fulfill the role of the agricultural monitor have been met. If the Office, in consultation with the NYSAGM, agrees that the independent third-party monitor is qualified on agricultural issues, one monitor can act as both the general environmental monitor as well as the agricultural- specific environmental monitor. **(NOT APPLICABLE)**
- (t) **Hazardous Materials.** The Permittee shall comply with the NYSDEC-approved Site Management Plan for the facility site, or any portion thereof, if applicable.
- (u) **Cultural Resources Avoidance, Minimization and Mitigation Plan.** The Permittee shall implement the approved Cultural Resources Avoidance, Minimization and Mitigation Plan required in 19 NYCRR § 900-10.2(g).

5.5. Facility Operation

(a) **Noise Limits for Wind Facilities (NOT APPLICABLE)**

- (1) Noise levels by all noise sources from the wind facility(ies) shall: **(NOT APPLICABLE)**
 - (i) Comply with a maximum noise limit of forty-five (45) dBA Leq (8-hour) at the outside of any non-

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participating residence, and fifty-five (55) dBA Leq (8-hour) at the outside of any participating residence existing as of the issuance date of the siting permit; **(NOT APPLICABLE)**

- (ii) Prominent tones are defined by using the constant level differences listed under ANSI/ASA S12.9-2005/Part 4 Annex C (sounds with tonal content) (see 19 NYCRR § 900-15.1(a)(1)(iii)) at the outside of any non-participating residence existing as of the issuance date of the siting permit. Should a prominent tone occur, the broadband overall (dBA) noise level at the evaluated non-participating position shall be increased by five (5) dBA for evaluation of compliance with subparagraphs (i) and (v) of this paragraph; **(NOT APPLICABLE)**
- (iii) Comply with a maximum noise limit of sixty-five (65) dB Leq (1-hour) at the full octave frequency bands of sixteen (16), thirty-one and a half (31.5), and sixty-three (63) Hertz outside of any non-participating residence existing as of the issuance date of the siting permit, in accordance with Annex D of ANSI/ASA standard S12.9-2005/Part 4 Section D.2.(1) (Analysis of sounds with strong low-frequency content) (see 19 NYCRR § 900-15.1(a)(1)(iii)); **(NOT APPLICABLE)**
- (iv) Not produce human perceptible vibrations inside any non-participating residence existing as of the issuance date of the siting permit that exceed the limits for residential use recommended in ANSI/ASA Standard S2.71-1983 "Guide to the evaluation of human exposure to vibration in buildings" (see 19 NYCRR § 900-15.1(a)(1)(i)); **(NOT APPLICABLE)**
- (v) Comply with a noise limit of forty (40) dBA Leq (1-hour) at the outside of any non-participating residence existing as of the issuance date of the siting permit from the collector substation equipment; **(NOT APPLICABLE)** and

(vi) Emergency situations are exempt from the limits specified in this subdivision. **(NOT APPLICABLE)**

(2) *Post-Construction Noise Compliance and Monitoring for Wind Facilities.* To evaluate compliance with noise-related conditions, the Permittee shall comply with the following requirements: **(NOT APPLICABLE)**

(i) Compliance with subparagraphs (1)(i)-(v) of this section for the facility shall be evaluated by the Permittee by implementing a sound testing compliance protocol that shall follow the provisions and procedures for post-construction noise performance evaluations approved by the Office and stated in the siting permit; **(NOT APPLICABLE)**

(ii) At least two sound compliance tests conforming to the sound testing compliance protocol shall be performed by the Permittee after the commercial operation date of the facility: one during the "leaf-off" season and one during the "leaf-on" season; **(NOT APPLICABLE)**

(iii) Within seven (7) months after the commercial operation date of the facility, the Permittee shall perform and complete the first sound compliance test and the results shall be submitted by filing a report from an independent acoustical or noise consultant, no later than eight (8) months after the commercial operation date, specifying whether or not the facility is found in compliance with all siting permit conditions on noise during the "leaf on" or "leaf off" season as applicable; **(NOT APPLICABLE)** and

(iv) The second sound compliance test shall be performed, and results shall be submitted subject to the same provisions contained in subparagraph (iii) of this paragraph, but no later than thirteen

(13) months after the commencement of commercial operation of the facility. **(NOT APPLICABLE)**

(3) *Noise Exceedances from Wind Facilities.* If the results of the first or second post- construction sound compliance test, or any subsequent test, or any compliance or violation test, indicate that the facility does not comply with siting permit conditions on noise and vibration, the Permittee shall: **(NOT APPLICABLE)**

(i) Present minimization options to the NYSDPS, with a copy to the Office, within sixty (60) days after the filing of a non-compliance test result or the finding of a noncompliance or a violation of siting permit conditions on noise, as follows: **(NOT APPLICABLE)**

a. Operational minimization options related to noise or vibrations caused by the wind turbines that shall be considered, including, at a minimum, modifying or reducing times or duration of turbine operation, incorporating noise reduced operations, shutting down relevant turbines, and modifying operational conditions of the turbines; **(NOT APPLICABLE)**

b. Physical minimization options related to noise or vibration caused by the wind turbines that shall be considered, including installation of serrated edge trails on the turbine blades, replacement or maintenance of noisy components of the equipment, and any other measures as feasible and appropriate; **(NOT APPLICABLE)** and

c. If applicable, any minimization measures related to noise from transformers (such as walls or barriers), emergency generators (such as installation of noise walls or barriers, adding or replacing enclosures or silencers to the emergency generator), or any other noise sources (such as HVAC equipment or energy

storage systems), shall be considered, as well as any other mitigation measures as feasible and appropriate. **(NOT APPLICABLE)**

(ii) Upon approval from the NYSDPS and the Office, the Permittee shall implement any operational noise or vibration mitigation measures within ninety (90) days after the finding of a non-compliance or siting permit violation, as necessary to achieve compliance. **(NOT APPLICABLE)**

(iii) Upon approval from the NYSDPS and the Office, the Permittee shall implement any physical noise or vibration mitigation measures within one hundred fifty (150) days after the finding of a non-compliance or siting permit violation, as necessary to achieve compliance. **(NOT APPLICABLE)**

(iv) If the Permittee cannot meet the timelines for implementation of mitigation measures set forth in subparagraphs (ii) and (iii) of this paragraph, Permittee shall cease operation of the turbines of the facility that caused the non-compliance or siting permit violation until the operational or physical minimization measures that are presented and approved by the NYSDPS and the Office have been implemented. Once implemented, the Permittee shall not operate the facility without the mitigation measures presented and approved by the NYSDPS and the Office. **(NOT APPLICABLE)**

(v) Test, document and present results of any minimization measures and compliance with all siting permit conditions on noise, no later than ninety (90) days after the minimization measures are implemented. **(NOT APPLICABLE)**

(4) *Noise and Vibration Complaints from Wind Facilities.* The Permittee shall adhere to the following conditions regarding noise complaints: **(NOT APPLICABLE)**

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- (i) The Permittee is required to maintain a log of complaints received relating to noise and vibrations caused by the operation of the facility. The log shall include name and contact information of the person that lodges the complaint, name of the property owner(s), address of the residence where the complaint was originated, the date and time of the day underlying the event complained of, and a summary of the complaint. **(NOT APPLICABLE)**

- (ii) The Permittee shall provide the host municipalities with a phone number, email address, and mailing address where complaints can be notified. **(NOT APPLICABLE)**

- (iii) All complaints received shall be reported to the NYSDPS staff, with a copy to the Office, monthly during the first year of commercial operations and quarterly thereafter, by filing during the first ten (10) days of each month (or the first ten (10) days of each quarter after the first year). Reports shall include copies of the complaints and, if available, a description of the probable cause (e.g., outdoor or indoor noise, tones, low frequency noise, amplitude modulation, vibrations, rumbles, rattles, etc., if known); the status of the investigation, summary of findings and whether the facility has been tested and found in compliance with applicable siting permit conditions on noise or minimization measures have been implemented. If no noise or vibration complaints are received, the Permittee shall submit a letter indicating that no complaints were received during the reporting period. **(NOT APPLICABLE)**

- (iv) Should complaints related to excessive and persistent amplitude modulation occur at any non-participating residence existing as of the issuance date of the siting permit, with measured or modeled sound levels exceeding forty (40) dBA Leq (1-hour), the Permittee shall investigate and

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measure amplitude modulation at the affected receptors during the time frame when the worst conditions are known, or, if not known, expected to occur. If the L90-10- minute noise levels (dBA), including any amplitude modulation and prominent tone penalties exceed a noise level of forty-five (45) dBA and amplitude modulation is in excess of a five (5) dB modulation depth at the evaluated receptor(s) for more than five (5) percent of the time during the identified time frame of evaluation (which shall not exceed eight consecutive hours), the Permittee shall continue with the investigation, identify frequency of occurrence and the conditions that may be favorable for its occurrence, and propose minimization measures to avoid or minimize the impacts. Minimization measures that avoid, minimize, resolve, or mitigate the amplitude modulation impacts shall be identified and reported by filing the identified minimization measures and implementing such measures after, and consistent with, review and approval. Compliance with this requirement shall be finally demonstrated by conducting a test that shows that the L90-10- minute sound levels (dBA), including a five (5)-dBA penalty for amplitude modulation (if amplitude modulation depth is in excess of five (5) dB for more than five (5) percent of the time in any eight (8) consecutive hours) at that particular location and any additional prominent tone penalties, are lower than or equal to forty-five (45) dBA. For any complaints that do not exceed the limits established in the foregoing, the Permittee shall handle those complaints under the complaint resolution protocol approved by the Office. Amplitude Modulation depth will be evaluated as indicated in the document entitled "A Method for Rating Amplitude Modulation in Wind Turbine Noise", 09 August 2016, Version 1 (see 19 NYCRR § 900-15.1(c)(1)(i)). **(NOT APPLICABLE)**

- (v) The Permittee shall investigate all other noise and vibration complaints by following the complaint resolution protocol approved by the Office, and consistent with the limits imposed by the siting permit. **(NOT APPLICABLE)**
- (5) *Facility Logs for Wind Facilities.* The Permittee is required to maintain a log of operational conditions of all the turbines with a ten (10)-minute time interval to include, at a minimum, wind velocity and wind direction at the hub heights, angular speed of the rotors, generated power, and notes indicating operational conditions that could affect the noise levels (e.g., maintenance, shutdown, etc.). A schedule and log of noise-reduced operations for individual turbines shall also be kept and updated as necessary. These records shall be maintained by the Permittee for five (5) years from occurrence. **(NOT APPLICABLE)**
- (b) **Noise Standards for Solar Facilities.** The Permittee shall implement the approved design as required by 19 NYCRR § 900-2.8.
- (c) **Operational Compliance.** The Permittee shall operate the facility to abide by applicable rules and regulations of the PSL and 16 NYCRR with respect to matters such as enforcement, investigation, safety and reliability. The Permittee shall abide by standard Good Utility Practice, and abide by all rules, guidelines and standards of the serving utilities, the New York Independent System Operator (NYISO), the Northeast Power Coordinating Council (NPCC), the New York State Reliability Council (NYSRC), the North American Electric Reliability Corporation (NERC) and successors. When applied to the Permittee, the term "Good Utility Practice" shall mean the standards applicable to an independent power producer connecting to the distribution or transmission facilities or system of a utility.
- (d) **Annual Inspection.** The Permittee shall have an annual inspection program for its facilities. An annual inspection report shall summarize maintenance and inspection activities

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performed and include details of any repairs undertaken. Reports shall identify any major damage, defects or other problems, or indicate that no such damage, defect or problem was found. Reports shall be made readily available upon request by the NYSDPS or the Office.

(e) Equipment Replacement. Replacement of major facility components with different make, model, size, or other material modification, shall be subject to review and approval of the Office pursuant to 19 NYCRR § 900-11.1.

(f) Interconnection Changes. Throughout the life of the facility, the Permittee shall provide a copy of the following interconnection documents to the secretary of the NYSDPS, with a copy to the Office:

(1) Any updates or revisions to the Interconnection Agreement or Facility Agreements between the Permittee, the serving utilities and NYISO; and

(2) Any System Reliability Impact Study (SRIS) required as part of a future facility modification or uprate, performed in accordance with the NYISO Open Access Transmission Tariff (OATT), available at www.nyiso.com.

(g) Facility Transmission Interconnection Related Incidents.

(1) The Permittee shall contact the NYSDPS Emergency Line within one (1) hour to report any transmission related incident on its owned and operated interconnection facilities which affects the operation of the facility, or that poses a public safety concern, and shall provide notification to the Office within twenty-four (24) hours.

(2) The Permittee shall file with the secretary of the NYSDPS a report on any such incident, upon request within seven (7) days, and provide a copy of the report to the serving utility and the Office. The report shall contain, when available, copies of applicable drawings, descriptions of the equipment involved, a description of the incident

and a discussion of how future occurrences will be prevented.

(h) Facility Malfunction

- (1) In the event of any catastrophic incident, including but not limited to blade failure, fire, tower collapse or other catastrophic event involving the facility and its associated equipment, the Permittee shall notify the Office and the NYSDPS no later than twelve (12) hours following such an event.
- (2) In the event of a malfunction of the facility or facility components which causes a significant reduction in the capability of such facility to deliver power for an extended duration (i.e., expected to last longer than one (1) month), the Permittee shall promptly file with the NYSDPS, and provide to the serving utility and the Office, copies of all notices, filings, and other substantive written communications with the NYISO as to such reduction, any plans for making repairs to remedy the reduction, and the schedule for any such repairs.

5.6. Decommissioning

- (a) The Permittee shall implement the approved Decommissioning and Site Restoration Plan as required by 19 NYCRR § 900-2.24. The Permittee shall adhere to all state laws and regulations in effect at the time of decommissioning regarding the disposal and recycling of components. **(See Site Specific Condition 6(c))**
- (b) The financial security regarding decommissioning and site restoration activities shall be in the form of a letter of credit (LOC) or other financial assurance approved by the Office, and shall be established by the Permittee to be held by each City, Town, or Village hosting facility components. The total amount of the financial security created for the Cities, Towns, or Villages shall be equal to the net decommissioning and site restoration estimate; the net decommissioning and site restoration estimate is equal to the

gross decommissioning and site restoration estimate (which is the overall decommissioning and site restoration estimate plus a fifteen (15) percent contingency cost) less the total projected salvage value of facility components; reference to salvage value data shall also be included in the Decommissioning and Site Restoration Plan required at 19 NYCRR §900-2.24. If the Permittee and the host municipalities cannot come to an agreement as to the appropriate amount of financial security to be provided, the Office shall make the final determination. The financial security shall remain active until the facility is fully decommissioned. The LOC shall be irrevocable and state on its face that it is expressly held by and for the sole benefit of the specific Town, City, or Village. **(See Site Specific Condition 6(c))**

6. SITE SPECIFIC CONDITIONS

The Permittee shall comply with the following site specific conditions during construction and operation of the Facility over the life of this Permit. Specific conditions shall take precedence over other conditions of this Permit should there be a conflict.

(a) Final Plans, Profiles and Detail Drawings

(1) Final Record Set - Consistent with 19 NYCRR § 900-10.2, the Permittee shall provide the Office a record set of the Final Plans, Profiles and Detail Drawings, including without limitation the collection substation, interconnection switchyard and overhead lines and poles located adjacent to the existing NYPA 345kV Dysinger to New Rochester transmission facility.

(2) Oil and/or Natural Gas Wells Required Setbacks

(a) In compliance with 19 NYCRR § 900-2.4(u), the Permittee's Final Plans, Profiles, and Detail Drawings shall demonstrate adherence to the following setbacks from known and existing plugged or unplugged oil and/or natural gas wells and associated infrastructure (including newly

discovered wells identified during pre-construction surveys):

- i. All limits of disturbance and permanent Facility components (including permanent access roads) shall maintain a minimum one hundred (100) foot setback from all known and existing oil and/or natural gas wells and associated infrastructure, to allow sufficient entry for a well service rig and ancillary equipment to access the well, in the event that well servicing or well plugging is necessary; and
 - ii. All limits of disturbance and permanent Facility components (including permanent access roads) shall allow for sufficient space for construction of an access road of at least thirty (30) feet in width to allow entry to known and existing oil and/or natural gas wells and associated infrastructure.
- (b) If previously unknown oil and/or natural gas wells are confirmed within the Project Site during construction of the Facility, the Permittee shall immediately cease construction activities in the immediate area surrounding the well and shall notify and consult with the Office and NYSDEC Division of Mineral Resources, Region 8, Regional Minerals Manager, to determine what, if any, mitigation measures must be implemented.

(b) Agricultural Resources

- (1) Final Drainage Remediation Plan - Consistent with 19 NYCRR §§ 900-2.16(d), 900-6.4(s) and 900-10.2, the Permittee shall submit a Final Drainage Remediation Plan prepared by a licensed professional engineer to avoid, minimize or mitigate potential significant adverse drainage impacts, including inadvertent damages to surface or subsurface drainage systems, and an

identification of methods of repair for damaged drainage systems within the Project Footprint during the construction, operation and decommissioning phases.

- (a) The Final Drainage Remediation Plan shall address the following, without limitation: indicate that the existing subsurface drainage will be identified and located before construction as much as is reasonably possible based primarily on consultation with the County Soil and Water Conservation District and the landowner. During and after construction, any known existing drain tiles within the Project Footprint will be checked for damage, and any such damaged drain tiles will be repaired or replaced consistent with the New York State Department of Agriculture & Markets details for "Repair of Severed Tile Line" as necessary to prevent offsite drainage issues, or as specified in landowner lease agreements, and will be performed by qualified drain-tile specialists. The Applicant will coordinate with the landowner and the environmental/agricultural monitor to continue to monitor drain tiles to ensure repairs are properly functioning.
- (2) Agricultural Co-Utilization Plan - Consistent with 19 NYCRR §§ 900-2.16(e), 900-6.4(s) and 900-10.2, the Permittee shall submit an Agricultural Co-Utilization Plan for the life of the Facility establishing a program or pilot program to implement agricultural co-utilization at the Project Site to minimize or mitigate potential significant adverse impacts to agricultural resources.
 - (a) The Agricultural Co-Utilization Plan shall include the following, without limitation:
 - (i) Evaluation of options for traditional row crops and hay, sheep or other grazing, the cultivation of pollinator-friendly plantings, the installation of apiaries, livestock or livestock products;
 - (ii) A demonstration that the proposed agricultural co-utilization will be feasible; and

(iii) An itemization of the proposed investments made by the applicant to facilitate the agricultural co-utilization (e.g., grazing plan, planting pasture species, development of watering facilities, modified access for livestock trailers, panel spacing, additional fencing, access roads, gates, housing, etc.).

(3) Consistent with 19 NYCRR §§ 900-2.16(e), 900-6.4(s) and 900-10.3, the Permittee shall submit an Agricultural Co-Utilization Implementation Plan (Implementation Plan) before the commencement of construction of any agricultural integration facility or the commencement of agricultural co-utilization activities, including all applicable local permits and approvals. Each Implementation Plan shall include the following:

- (a) landowner agreements allowing access for authorized co-utilization activities (e.g., sheep farmers/beekeepers);
- (b) prescribed plan details for authorized co-utilization activities (e.g., grazing plans);
- (c) long-term farming contracts;
- (d) site plans depicting operational agricultural co-utilization equipment and facility components;
- (e) decommissioning requirements for associated infrastructure (water wells, water lines, fencing, barns, etc.); and
- (f) compliance with applicable NYSAGM regulations and other applicable regulations and guidance.

(c) Final Decommissioning and Site Restoration Plan

- (1) Pursuant to 19 NYCRR § 900-10.2(b) and in lieu of the decommissioning security requirements in 19 NYCRR

§§ 900-2.24(c) and 900-6.6(b), the Permittee shall submit a Final Decommissioning and Site Restoration Plan consistent with the following requirements:

- (a) The security shall be in the amount of 125% of the cost of removal of the Solar Facility and restoration of the property with an escalator of 2% annually for the life of the Solar Facility;
 - (b) The salvage value of the solar energy equipment shall not be accounted for in the estimated cost of implementing the decommissioning plan; and
 - (c) The amount of the financial security shall be updated every fifth year thereafter specifying changes to the estimated cost of implementing the decommissioning plan.
- (2) The Final Decommissioning and Site Restoration Plan for the portion of the Solar Facility in the Town of Oakfield shall comply with the requirements for the Final Decommissioning and Site Restoration Plan in the Town of Elba, as specified in subpart 6(c)(1) above.
- (3) The Permittee shall provide each of the Town of Elba and the Town of Oakfield with separate security in amounts representing the pro-rata share of the Project Site in each municipality, exclusive of the collection substation, interconnection switchyard and associated overhead lines and poles, which shall be allocated to the Town of Elba.
- (d) **Screen Planting Plans** - Consistent with 19 NYCRR § 900-10.2(b) and in lieu of the requirements in 19 NYCRR § 900-6.4(1)(3), the Permittee's Screen Planting Plans shall comply with the substantive provisions of applicable local laws and ordinances of the Town of Oakfield and the Town of Elba.

7. COMPLIANCE REQUIREMENTS (19 NYCRR subpart 900-10)

The Permittee shall submit the following compliance filings to the Office for review and approval in accordance with 19 NYCRR § 900-

10.1. Certain compliance filings are not applicable, as noted below, due to the fact that the Facility has been designed to avoid impacts to a particular resource, the resource is not present at this Facility, or the specific technology proposed renders the compliance filings inapplicable.

7.1 Pre-Construction Compliance Filings (19 NYCRR § 900-10.2):

Pre-construction compliance filings required pursuant to 19 NYCRR § 900-10.2 shall be submitted to the Office.

(a) **Federal Permits.** Copies of all federal and federally-delegated permits and approvals required for construction and operation of the facility.

(b) **Final Decommissioning.**

(1) Final Decommissioning and Site Restoration Plan, including a decommissioning and site restoration estimate (for site restoration and decommissioning of all proposed Facility components removed four (4) feet below grade in agricultural land and three (3) feet below grade in non-agricultural land and removal and restoration of access road locations, where appropriate) and proof that the letter(s) of credit (or other financial assurance approved by the Office) have been obtained in the decommissioning and site restoration estimate amount, as calculated pursuant to 19 NYCRR §900-6.6(b). **(See Site Specific Condition 6(c))**

(2) Letter(s) of credit (or other financial assurance approved by the ORES) and copies of agreements between the Permittee and the Towns, Cities, and Villages, establishing a right for each municipality to draw on the letters of credit (or other financial assurance approved by the Office) dedicated to its portion of the facility shall be provided to the Office of Renewable Energy Siting after one year of facility operation and updated every fifth year thereafter specifying changes (due to inflation or other cost increases) to the structure of the letters of credit (or other financial

assurance approved by the Office). **(See Site Specific Condition 6(c))**

(c) Plans, Profiles, and Detail Drawings.

- (1) A statement shall be provided indicating that a professional engineer has reviewed facility details and attests to the accuracy of the final design as reflected in revised and initially filed (unaffected material) maps, site plans, profile figures, and environmental controls and construction details in accordance with 19 NYCRR §§ 900-2.6 and 900-2.17.
- (2) Foundation drawings, including plan and sections details, to be used for wind turbines **(NOT APPLICABLE)** or solar facility installations; if multiple foundation designs are to be utilized for the facility, the foundation type at each location will be specified on foundation plans (listed in a table or indicated on corresponding site plans). Applicable criteria regarding foundation design and installation shall be listed and described in the drawings. Foundation drawings shall be stamped and signed by a professional engineer, licensed and registered in New York State.
- (3) Copies of any agreements entered with the owners/operators of existing high-pressure gas pipelines regarding the protection of those facilities.

(d) Wind Turbine Certifications. (NOT APPLICABLE)

- (1) A design verification, confirming that the wind turbines were designed in accordance with International Electrotechnical Commission (IEC) 61400-1:2019 (see 19 NYCRR § 900-15.1(b)(1)(i)). **(NOT APPLICABLE)**

(e) Construction Management.

- (1) A Quality Assurance and Control Plan, which shall include job titles and qualifications necessary, demonstrating how the Permittee will monitor and assure

Office of Renewable Energy Siting Permit
Cider Solar Farm (Matter No. 21-01108)

conformance of facility design, engineering and installation, including general concrete testing procedures with a plan outlining the monitoring and testing of concrete procedures in conformance with and reference to all applicable codes and standards.

- (2) A Construction Operations Plan, which shall indicate all material lay-down areas, construction preparation areas, temporary concrete batch location, major excavation and soil storage areas, and construction equipment.
- (3) A Facility Maintenance and Management Plan, which shall include plans, procedures and criteria specifically addressing the following topics:
 - (i) Inspections, maintenance, and repairs of turbines **(NOT APPLICABLE)**, solar panels, inverters, and associated equipment, including conformance with manufacturer's required maintenance schedules, safety inspections, and tower integrity; and
 - (ii) Electric collection, transmission, and interconnect line inspections, maintenance, and repairs.
- (4) A Vegetation Management Plan, which shall include, at a minimum, the following:
 - (i) Vegetation management practices for switchyard and substation yards and for transmission and interconnection facilities, including danger trees (trees that due to location and condition are a particular threat to fall on and damage electrical equipment) around transmission and interconnection facilities, specifications for clearances, inspection and treatment schedules, and environmental controls to avoid off-site effects;
 - (ii) Vegetation management recommendations, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species;

- (iii) Planting of native vegetation, based on on-site surveys of vegetation cover types and growth habits of undesirable vegetation species;
 - (iv) Restoration of disturbed areas, ruts, and rills to original grades and conditions with permanent re-vegetation and erosion controls appropriate for those locations;
 - (v) All proposed chemical and mechanical techniques for managing undesirable vegetation. Herbicide use and limitations, specifications, and control measures shall be included;
 - (vi) Substation fence-line clearances, and overhead wire security clearance zone specifications, indicating applicable safety, reliability and operational criteria;
 - (vii) Inspection and target treatment schedules and exceptions;
 - (viii) Standards and practices for inspection of facilities easements for erosion hazard, failure of drainage facilities, hazardous conditions after storm events or other incidents;
 - (ix) Review and response procedures to avoid conflicts with future use encroachment or infrastructure development; and
 - (x) Host landowner notification procedures.
- (5) Facility Communications Plan, which shall include the Permittee's construction organizational structure, contact list, and protocol for communication between parties. The Permittee shall provide to NYSDPS staff, Office staff and the municipalities the names and contact information of all individuals responsible for facility oversight.

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Cider Solar Farm (Matter No. 21-01108)

- (6) Environmental Monitoring Plan, including names and qualifications of companies that will serve as environmental monitors (including agricultural monitor).
- (7) A Complaint Management Plan, which shall describe, at a minimum, the following:
 - (i) Methods for registering a complaint, which shall include a phone number, email address, mailing address, and a form to report complaints;
 - (ii) Notification to the public of the complaint procedures;
 - (iii) Process for responding to and resolving complaints in a consistent, timely, and respectful manner;
 - (iv) Logging and tracking of all complaints received and resolutions achieved, with records of the following for each complaint containing:
 - a. The name and contact information of the person filing the complaint;
 - b. Location and owner of the property where the complaint originated;
 - c. Date and time of the underlying event causing the complaint;
 - d. Description of the complaint; and
 - e. Current status and description of measures taken to resolve the complaint.
 - (v) Reporting to the Office and the NYSDPS any complaints not resolved within thirty (30) days of receipt;

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Cider Solar Farm (Matter No. 21-01108)

- (vi) Mediating complaints not resolved within sixty (60) days; and
 - (vii) Providing annual reports of complaint resolution tracking to the Office staff and NYSDPS staff, which shall also be filed with the Executive Director of the Office and Secretary of the NYSDPS.
- (8) A Traffic Control Plan shall be in effect during facility construction, to ensure safety and minimize potential delays to local traffic during construction, which shall describe, at a minimum, the following:
- (i) Maps and plans showing final haul routes developed in consultation with the host municipalities and State, County and municipal highway officials in coordination with the turbine manufacturer **(Not Applicable)**. Final haul routes shall be accurately depicted in drawings submitted with the Traffic Control Plan.
 - (ii) Copies of all necessary transportation permits from the affected State, County, and municipal agencies for such equipment and/or materials on such route. Such permits shall include but not be limited to: Highway Work Permits to work within the ROW, permits to exceed posted weight limits, Highway Utility Permits to construct facilities within ROW, Traffic Signal Permits to work within ROW, Special Haul Permits for oversize/overweight vehicles, and Divisible Load Overweight Permits.
 - (iii) Copies of all necessary agreements with utility companies for raising or relocating overhead wires where necessary to accommodate the oversize/overweight delivery vehicles, if applicable.
 - (iv) A copy of all road use and restoration agreements, if any, between the Permittee and landowners, municipalities, or other entities, regarding repair

of local roads damaged by heavy equipment, construction or maintenance activities during construction and operation of the facility.

(f) Environmental.

- (1) Proof that the required payment was made into the Endangered and Threatened Species Mitigation Bank Fund, if required.
- (2) A copy of the Wetland Restoration and Mitigation Plan, if required.
- (3) A copy of the Stream Restoration and Mitigation Plan, if required. **(NOT APPLICABLE)**
- (4) A copy of the Invasive Species Control and Management Plan (ISCMP), prepared in compliance with 6 NYCRR Part 575, which shall include the following information:
 - (i) Baseline mapping of all invasive species within the facility area and for one hundred (100) feet beyond the facility's limit of disturbance (LOD). The baseline mapping and data shall include the relative abundance and distribution of each invasive species prior to the commencement of any construction activities;
 - (ii) Identification of specific control, removal, and disposal measures to be implemented for each identified and mapped invasive species/plant community during construction activities. The ISCMP shall include a detailed sequence and schedule for all mechanical and chemical control measures to be implemented during construction activities;
 - (iii) A detailed monitoring plan and specific sampling protocols for each identified and mapped invasive species/plant community within the facility area and for one hundred (100) feet beyond the LOD;

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Cider Solar Farm (Matter No. 21-01108)

- (iv) Identification of specific control contingency measures to be implemented as part of the ISCMP for each identified and mapped invasive species for the duration of the facility adaptive management and monitoring period (i.e., 5 years, unless extended). The ISCMP shall include a detailed sequence and schedule for all contingency mechanical and chemical control measures to be implemented during the monitoring period;
 - (v) Specific contingency measures to be implemented (i.e., regrading, re-planting of native species etc.) to achieve the final site restoration criteria (i.e., eighty (80) percent survivorship of appropriate native species reestablishment over all portions of the replanted areas, unless the baseline survey indicates a smaller percentage of appropriate species exists prior to construction); and
 - (vi) Details regarding the responsible party or parties designated to implement the ISCMP and what financial assurances exist to ensure successful monitoring and ISCMP implementation.
- (5) A copy of an Inadvertent Return Flow Plan containing the following requirements:
- (i) Erosion and sediment control shall be used at the point of HDD, so that drilling fluid shall not escape the drill site and enter NYS-regulated wetlands, waterbodies and streams (as delineated pursuant to 19 NYCRR § 900-1.3(e) and (f)). The disturbed area shall be restored to original grade and reseeded upon completion of HDD;
 - (ii) Drilling fluid circulation shall be maintained to the extent practical;
 - (iii) If inadvertent returns occur in upland areas, the fluids shall be immediately contained and

collected; and

- (iv) If the amount of drilling fluids released is not enough to allow practical collection, the affected area shall be diluted with freshwater and allowed to dry and dissipate naturally.
- (6) For wind facilities, a Final Geotechnical Engineering Report verifying subsurface conditions within the facility site, including the results of borings and/or test pits at each turbine location. **(NOT APPLICABLE)**
- (g) A copy of a Cultural Resources Avoidance, Minimization and Mitigation Plan, providing:
 - (1) A demonstration that impacts of construction and operation of the facilities on cultural resources (including archeological sites and any stone landscape features, and historic resources) will be avoided or minimized to the extent practicable by selection the proposed facility's location, design and/or implementation of identified mitigation measures.
 - (2) A Cultural Resources Mitigation and Offset Plan, either as adopted by federal permitting agency in subsequent National Historic Preservation Act (NHPA) Section 106 review, or as required by the Office, in consultation with New York State Historic Preservation Office (SHPO) in the event that the NHPA Section 106 review does not require that the mitigation plan be implemented. Proof of mitigation funding awards for offset facility implementation to be provided within two (2) years of the start of construction of the facility shall be included.
- (h) **Real Property Rights.**
 - (1) A copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public streets, and such deeds, easements, leases, licenses, or other real property rights or privileges as

are necessary for all interconnections for the facility.

- (2) Map of survey of facility site properties with property lines based on metes and bounds survey.
 - (3) Notarized memos or similar proof of agreement for any participating property whose owner has signed a participation agreement or other type of agreement addressing potential facility impacts (e.g., noise, shadow flicker, setback, etc.).
- (i) A copy of any Interconnection Agreements (IA).
 - (j) Documentation of all host community benefits to be provided by the Permittee.

7.2 Post-Construction Compliance Filings (19 NYCRR § 900-10.3):

Post-construction compliance filings required pursuant to 19 NYCRR § 900-10.3 shall be submitted to the NYS DPS.

- (a) Any updated information regarding the design, safety and testing for the wind turbines (**NOT APPLICABLE**), solar panel, inverters, substation, transformer, and battery storage equipment (**NOT APPLICABLE**) to be installed during construction as well as information regarding the design, safety, and testing for any equipment installed during facility operation as a replacement of failed or outdated equipment shall be filed within fourteen (14) days of completion of all final post-construction restoration.
- (b) As-built plans in both hard and electronic copies shall be filed within nine (9) months of the commencement of commercial operations of the facility and shall include the following:
 - (1) GIS shapefiles showing all components of the facility (wind turbine locations) (**NOT APPLICABLE**), solar panel array locations, electrical collection system, substation, buildings, access roads, met towers (**NOT APPLICABLE**), point of interconnection, etc.);

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- (2) Collection circuit layout map; and
- (3) Details for all facility component crossings of, and co-located installations of facility components with, existing pipelines: showing cover, separation distances, any protection measures installed, and locations of such crossings and co-located installations.

**Genesee County Economic Development Center
October 2022 Dashboard
Balance Sheet - Accrual Basis**

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	<u>10/31/22</u>	<u>9/30/22</u>	[Per Audit] <u>12/31/21</u>
ASSETS:			
Cash - Unrestricted	\$ 6,605,391	\$ 6,850,917	\$ 7,339,508
Cash - Restricted (A)(1)	9,416,135	9,659,149	11,674,315
Cash - Reserved (B)	794,162	793,962	792,739
Cash - Subtotal	<u>16,815,688</u>	<u>17,304,028</u>	<u>19,806,562</u>
Grants Receivable (2)	60,728	59,968	65,327
Accounts Receivable (3)	33,249	97,190	337,456
Deposits	2,832	2,832	2,832
Prepaid Expense(s) (4)	21,361	24,393	42,651
Loans Receivable - Current	55,832	56,758	52,489
Total Current Assets	<u>16,989,690</u>	<u>17,545,169</u>	<u>20,307,317</u>
Land Held for Dev. & Resale (5)	22,060,953	21,542,006	19,467,282
Furniture, Fixtures & Equipment	71,257	71,257	71,257
Total Property, Plant & Equip.	<u>22,132,210</u>	<u>21,613,263</u>	<u>19,538,539</u>
Less Accumulated Depreciation	(69,074)	(69,020)	(68,528)
Net Property, Plant & Equip.	<u>22,063,136</u>	<u>21,544,243</u>	<u>19,470,011</u>
Loans Receivable- Non-current (Net of \$47,429 Allow. for Bad Debt)	<u>147,749</u>	<u>152,581</u>	<u>195,885</u>
Other Assets	<u>147,749</u>	<u>152,581</u>	<u>195,885</u>
TOTAL ASSETS	<u>39,200,575</u>	<u>39,241,993</u>	<u>39,973,213</u>
DEFERRED OUTFLOWS OF RESOURCES			
Deferred Pension Outflows (10)	<u>597,836</u>	<u>597,836</u>	<u>597,836</u>
Deferred Outflows of Resources	<u>597,836</u>	<u>597,836</u>	<u>597,836</u>
LIABILITIES:			
Accounts Payable (6)	6,423	4,416	548,813
Loan Payable - Genesee County - Current (7)	305,000	305,000	295,000
Accrued Expenses	66,618	62,564	29,545
Unearned Revenue (8)	9,198,382	9,450,169	10,993,355
Total Current Liabilities	<u>9,576,423</u>	<u>9,822,149</u>	<u>11,866,713</u>
Loans Payable - ESD (9)	5,196,487	5,196,487	5,196,487
Loan Payable - Genesee County - Noncurrent (7)	2,825,000	2,825,000	3,130,000
Aggregate Net Pension Liability (10)	2,612	2,612	2,612
Total Noncurrent Liabilities	<u>8,024,099</u>	<u>8,024,099</u>	<u>8,329,099</u>
TOTAL LIABILITIES	<u>17,600,522</u>	<u>17,846,248</u>	<u>20,195,812</u>
DEFERRED INFLOWS OF RESOURCES			
Deferred Pension Inflows (10)	<u>791,742</u>	<u>791,742</u>	<u>791,742</u>
Deferred Inflows of Resources	<u>791,742</u>	<u>791,742</u>	<u>791,742</u>
NET ASSETS	<u>\$ 21,406,147</u>	<u>\$ 21,201,839</u>	<u>\$ 19,583,495</u>

Significant Events:

1. Restricted Cash - Includes cash deposited by ESD into imprest accounts related to the \$8M and \$33M STAMP grants. Expenditures out of these accounts are pre-authorized by ESD. Also included are funds received from the County per a Water Supply Agreement, to be put towards water improvements located in the Town of Alabama and the Town of Pembroke and other Phase II improvements as identified by the County. These funds were used to pay for qualifying expenditures; Zero balance at 10/31/22.
2. Grants Receivable - National Grid grants support marketing and development activities for STAMP and the LeRoy Food & Tech Park.
3. Accounts Receivable - Econ. Dev. Program Support Grant, MedTech Centre Property Management, etc.
4. Prepaid Expense(s) - General Liability, Cyber, D&O, Life, long-term and short-term disability insurance, property insurance, etc.
5. Land Held for Dev. & Resale - Additions are related to STAMP development costs.
6. Accounts Payable - e3communications expenses, dental insurance and interest earned on imprest accounts that will be remitted to ESD.
7. Loan Payable - Genesee County (Current & Noncurrent) - Per a Water Supply Agreement with Genesee County, the County remitted \$4M to the GCEDC to put towards water improvements located in the Town of Alabama and the Town of Pembroke and other Phase II improvements as identified by the County. GCEDC started making annual payments to the County of \$448,500 beginning in January 2020.
8. Unearned Revenue - Interest received in advance; Genesee County contribution received in advance; Funds received from municipalities to support park development; Funds received to support workforce development; ESD Grant funds to support STAMP development, not actually earned until eligible expenditures are incurred.
9. Loans Payable - ESD - Loans from ESD to support STAMP land acquisition and related soft costs.
10. Deferred Pension Outflows / Aggregate Net Pension Liability / Deferred Pension Inflows - Accounts related to implementation of GASB 68.

(A) Restricted Cash = GAIN! Loan Funds, Municipal Funds, Grant Funds Received in Advance.

(B) Reserved Cash = RLF #1 Funds (defederalized).

**Genesee County Economic Development Center
October 2022 Dashboard
Profit & Loss - Accrual Basis**

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	Month to Date		YTD		2022	2022
	10/31/22	10/31/21	2022	2021	Board Appr. Budget	YTD % of Budget
<u>Operating Revenues:</u>						
Genesee County	\$ 19,459	\$ 19,459	\$ 194,592	\$ 194,591	\$ 233,513	83%
Genesee County - WFD	2,083	-	20,832	-	-	N/A
Fees - Projects	750	2,908,874	382,843	3,379,749	411,500	93%
Fees - Services	7,099	6,961	70,991	69,611	85,192	83%
Interest Income on Loans	215	262	2,329	2,799	2,744	85%
Rent	-	-	16,393	16,806	21,071	78%
Common Area Fees - Parks	-	-	373	355	360	104%
Grants (1)	252,582	523,015	4,148,557	6,323,616	8,891,710	47%
GGLDC Grant- Econ. Dev. Program Support	25,000	25,000	250,000	250,000	300,000	83%
GCFC Grant - Econ. Dev. Program Support	-	-	328,388	-	-	N/A
Land Sale Proceeds	-	2,091,880	67,500	2,091,880	-	N/A
BP ² Revenue	14,096	641	22,693	1,342	27,454	83%
Other Revenue	-	-	1,390	2,159	5,000	28%
Total Operating Revenues	321,284	5,576,092	5,506,881	12,332,908	9,978,544	55%
<u>Operating Expenses</u>						
General & Admin	93,987	93,469	1,124,057	1,049,234	1,506,112	75%
Professional Services	5,859	15,281	60,163	44,900	108,500	55%
Site Maintenance/Repairs	1,147	426	5,171	4,832	39,500	13%
Property Taxes/Special District Fees	-	(10)	3,518	5,850	2,690	131%
PIF Expense	-	67,132	43,296	102,174	143,157	30%
Site Development Expense (2)	17,945	31,029	2,456,204	4,392,139	2,393,289	103%
Cost of Land Sales	-	611,303	5,775	611,303	-	N/A
Real Estate Development (3)	518,947	440,025	2,593,671	2,580,573	6,060,211	43%
Balance Sheet Absorption	(518,947)	(440,025)	(2,593,671)	(2,580,573)	-	N/A
Total Operating Expenses	118,938	818,630	3,698,184	6,210,432	10,253,459	36%
Operating Revenue (Expense)	202,346	4,757,462	1,808,697	6,122,476	(274,915)	
<u>Non-Operating Revenue</u>						
Other Interest Income	1,962	623	13,955	6,672	5,500	254%
Total Non-Operating Revenue	1,962	623	13,955	6,672	5,500	254%
Change in Net Assets	204,308	4,758,085	1,822,652	6,129,148	\$ (269,415)	
Net Assets - Beginning	21,201,839	13,246,818	19,583,495	11,875,755		
Net Assets - Ending	\$ 21,406,147	\$ 18,004,903	\$ 21,406,147	\$ 18,004,903		

Significant Events:

1. Grants - YTD includes \$448K Community Benefit Agreement payment dedicated to STAMP by sourcing debt service payments to the County; PIF from RJ Properties (Liberty Pumps) supports Apple Tree Acres Infrastructure improvements; PIF from Yancey's Fancy supports Infrastructure Fund Agreement with the Town of Pembroke; National Grid grant supports marketing and development activities for STAMP; ESD \$33M & \$8M Grants support STAMP engineering, environmental, legal, infrastructure, etc.
2. Site Development Expense - Installation of, or improvements to, infrastructure that is not owned by the GCEDC, or will be dedicated to a municipality in the foreseeable future, is recorded as site development expense when costs are incurred.
3. Real Estate Development Costs - Includes STAMP development costs.

Genesee County Economic Development Center
October 2022 Dashboard
Statement of Cash Flows

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	October 2022	YTD
CASH FLOWS USED BY OPERATING ACTIVITIES:		
Genesee County	\$ 21,542	\$ 236,967
Fees - Projects	750	699,243
Fees - Services	21,297	63,892
Interest Income on Loans	250	2,143
Rent	-	18,802
Common Area Fees - Parks	-	373
Grants	-	2,356,326
BP ² Revenue	14,096	22,693
GGLDC Grant - Economic Development Program Support	75,000	225,000
GCFC Grant - Economic Development Program Support	-	328,388
Land Sale Proceeds - Net	-	61,725
Other Revenue	-	1,390
Repayment of Loans	5,758	44,793
General & Admin Expense	(87,032)	(1,085,109)
Professional Services	(5,859)	(70,980)
Site Maintenance/Repairs	(1,147)	(5,171)
Site Development	(17,945)	(2,595,129)
Property Taxes/Special District Fees	-	(3,518)
PIF Expense	-	(43,296)
Improv/Additions/Adj to Land Held for Development & Resale	(518,947)	(2,970,311)
Net Cash Used By Operating Activities	(492,237)	(2,711,779)
CASH FLOWS USED BY NONCAPITAL FINANCING ACTIVITIES:		
Principal Payments on Loan	-	(295,000)
Net Cash Used By Noncapital Financing Activities	-	(295,000)
CASH FLOWS PROVIDED BY INVESTING ACTIVITIES:		
Interest Income (Net of Remittance to ESD)	3,897	15,905
Net Change in Cash	(488,340)	(2,990,874)
Cash - Beginning of Period	17,304,028	19,806,562
Cash - End of Period	\$ 16,815,688	\$ 16,815,688
RECONCILIATION OF NET OPERATING REVENUE TO NET CASH USED BY OPERATING ACTIVITIES:		
Operating Revenue	\$ 202,346	\$ 1,808,697
Depreciation Expense	54	546
Decrease in Operating Accounts/Grants Receivable	63,181	308,806
Decrease in Prepaid Expenses	3,032	21,290
Decrease in Loans Receivable	5,758	44,793
Increase in Land Held for Development & Resale	(518,947)	(2,593,671)
Increase (Decrease) in Operating Accounts Payable	72	(544,340)
Increase in Accrued Expenses	4,054	37,073
Decrease in Unearned Revenue	(251,787)	(1,794,973)
Total Adjustments	(694,583)	(4,520,476)
Net Cash Used By Operating Activities	\$ (492,237)	\$ (2,711,779)

GCEDC

Lezlie Farrell – Finance & Operations
Audit & Finance Committee Report
November 29, 2022

Insurance Renewal

Joe Teresi from Tompkins continues to work on options for our 2023 general liability insurance. Renewal terms and costs are not yet available from Selective but should be in the next few days. Tompkins is also working with two municipal markets in an effort to get them to consider covering our entities.

Joe will attend the Audit & Finance Committee to discuss the status of this. We will share information prior to the meeting if it becomes available.

GCEDC

Lezlie Farrell – Finance & Operations
Audit & Finance Committee Report
November 29, 2022

Audit Services

Discussion: The GCEDC and its affiliated corporations issued a joint Request for Proposals (RFP) for Professional Auditing Services on October 17, 2022. The RFP requested services for three audit years from January 1, 2022 to December 31, 2024, with an option of contracting for an additional two years (2025-2026). Requesting for this length of time is customary.

The RFP was submitted directly to five accounting firms. These firms were chosen based on research and consultation with Laura Landers, former Freed Maxick government services director. A notice was also published in the Batavia Daily News stating that the GCEDC and affiliated corporations issued an RFP for these services. The RFP responses were due by November 16th. Three proposals were received.

Proposals were reviewed and evaluated by:

Lezlie Farrell, CFO

Mark Masse, Sr. VP of Operations

Penny Kennett, Operations Manager

The proposals were evaluated based on:

- 1) Qualifications and experience of the audit firm
- 2) Qualifications and experience of the partners and staff.
- 3) Quoted fee rates for each year of the potential five-year engagement.
- 4) Compliance with local, state, and federal statutes and regulations.
- 5) Anticipated potential audit problems (if any).

Mostert, Manzanero & Scott, LLP is the firm being recommended by staff. Along with the firm's experience with the GCEDC and affiliated entities, they have listed references including three other Industrial Development Agencies and a Local Development Corporation. The proposed fee schedule has been included here for your review.

Action Requested: Staff is requesting the Committee recommend selection of Mostert, Manzanero & Scott, LLP to provide professional auditing services for the 2022-2024 audits with an option of contracting with the firm for the 2025-2026 audits.

4.3

Exhibit A

**Genesee County Industrial Development Agency d/b/a
Genesee County Economic Development Center &
Affiliates
Format for Schedule of Professional Fees and Expenses**

Entity	Services Required	2022 Fee	2023 Fee	2024 Fee	2025 Fee	2026 Fee
1) GCEDC	a) Audit of Financial Statements (including internal controls, compliance with Investment Guidelines and Supplemental Project Information)	\$ 10,300 -	\$ 10,700 -	\$ 10,700 -	\$ 11,000	\$ 11,000 -
	b) Single Audit of Federal award expenditures (if required)	2,500	2,500	2,500	2,500	2,500
2) GGLDC	a) Audit of Financial Statements (including internal controls and compliance with Investment Guidelines)	10,000	10,300	10,300	10,700	10,700
	b) Single Audit of Federal Award Expenditures (if required)	2,500	2,500	2,500	2,500	2,500
3) GCFC	a) Audit of Financial Statements (including internal controls, compliance with Investment Guidelines and Supplemental Project Information)	3,000	3,000	3,000	3,100	3,100
4) SWWC	Audit of Financial Statements; specific requirements TBD ***					
4) SSWC	Audit of Financial Statements; specific requirements TBD ***	1,500	2,000	2,000	2,100	2,100
Total		1,500	2,000	2,000	2,100	2,100
		\$ 31,300 -	\$ 33,000 -	\$ 33,000 -	\$ 34,000	\$ 34,000 -
Add: Out-of-Pocket Costs (if any) / Other						
Grand Total		\$ -	\$ -	\$ -	\$ -	\$ -

***Preliminary information related to these entities as follows:

SWWC – Formed to provide onsite water services to tenants at WNY STAMP (Science and Technology Advanced Manufacturing Park). SWWC is contracting with the Town of Batavia for Operations and Maintenance. This entity will be collecting fees from STAMP tenants and submitting payments for water and contracted services. STAMP currently has one tenant that will be buying water prior to year-end. Minimal activity for 2022.

SSWC – Formed to provide onsite sewer services to tenants at WNY STAMP. It is anticipated to begin providing sewer services to one WNY STAMP tenant in 2023.

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Review of Purchase and Sale Agreement for AppleTree Acres Property

Discussion: The GCEDC has received a Purchase and Sale Agreement from a potential project to acquire approximately 32.08 acres of tax parcel 13.-1-65 for \$850,000.

Fund Commitment: Legal fees to Harris Beach for the transaction as listed in the resolution.

Committee Action Request: Recommend approval of Purchase and Sale Agreement and payment of legal fees in connection with closing.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement"), is made and executed this ____ day of December, 2022 (the "Effective Date"), by and between **Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center**, located at 99 MedTech Drive, Batavia, New York 14020 ("Seller") and **Jacob Berardi**, on behalf of a to-be-formed New York limited liability company, located at 5885 Transit Road, East Amherst, New York 14051 ("Purchaser").

WITNESSETH:

WHEREAS, Seller is the owner of the real property and improvements located at AppleTree Avenue, in the Town of Bergen, County of Genesee, State of New York; and

WHEREAS, Seller desires to sell approximately 32.08 acres in the Town of Bergen, County of Genesee, State of New York known as tax account no. 13.-1-65, to Purchaser, and Purchaser desires to purchase the real property and improvements thereon upon the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and representations herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Property.** The real property to be conveyed consists of unimproved property identified in red on the diagram attached hereto as **Exhibit A** consisting of approximately 32.08 ± acres ("Land") situated on AppleTree Avenue, Town of Bergen, County of Genesee, State of New York, together with all right, title, and interest of Seller in and to (a) any and all easements and rights-of-way appurtenant to the Land; (b) any and all lands lying in the bed of any streets, roads, highways, alleys or driveways in front of and adjoining the Land; and (c) any and all strips and gores adjacent to or abutting the Land, and also together with the existing parking areas and driveways on the Land ("Property").

2. **Condition of Property.** The Property shall be conveyed free of any and all liens, encumbrances, security agreements or other financing devices except as provided in Paragraph 8 of this Agreement (such exceptions in Paragraph 8 constituting "Permitted Encumbrances").

3. **Purchase Price and Deposit.** The purchase price for the Property (the "Purchase Price") shall be **EIGHT HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$850,000.00)** payable to Seller in cash or a bank check, or by wire, at Closing (as such term is hereinafter defined). Within two (2) days of the Effective Date, Purchaser shall deposit with Seller's attorney in the attorney's noninterest bearing IOLA trust account the sum of Twenty Thousand and No/100 Dollars (\$20,000.00) (the "Deposit") to be credited towards the Purchase Price at Closing. The Deposit shall be refundable until the expiration of the Initial Due Diligence Period or the 90 Day Extension Period (as such terms are hereinafter defined), as applicable, at which time the Deposit shall become nonrefundable, but applicable to the Purchase Price in the event the transaction closes.

4. **Purchaser's Contingencies.** This Agreement, and Purchaser's obligations hereunder, shall be expressly contingent upon the following:

(a) Purchaser shall have the right, to conduct at its sole cost and expense within the initial ninety (90) day period after the Effective Date ("Initial Due Diligence and Contingency"), Phase I

and Phase II environmental assessments on the Property by an environmental engineer acceptable to Purchaser and Purchaser's lender, which reports shall be certified to Purchaser, and the results of which shall be satisfactory to Purchaser in its sole discretion. The Purchaser shall also receive from Seller within five (5) business days after the Effective Date, copies of all written reports for Phase I, Phase II, and Phase III environmental assessments for the Property in the possession of Seller, if any, which results shall be satisfactory to Purchaser in its sole discretion. Nothing herein shall require Purchaser to conduct a Phase I or Phase II environmental site assessment or assume responsibility for any existing environmental contamination which is found to be present on or under the Property. Notwithstanding the foregoing, Purchaser shall, upon completion of its environmental assessments, be responsible for restoring the Property to substantially the same condition as existed on the Property prior to the undertaking of such assessments.

(b) This offer is contingent upon: (i) Purchaser being able to obtain financing for the purchase of the Property on terms satisfactory to Purchaser in Purchaser's sole discretion on or before the expiration of the Initial Due Diligence and Contingency Period and (ii) upon Purchaser's receipt of such funds at Closing.

(c) On or before the expiration of the Initial Due Diligence and Contingency Period, Purchaser shall have received, at its sole cost and expense, all necessary governmental approvals, including zoning approvals, permits, consents, site plan approvals, subdivision or land separation approval, variances, and certificates of occupancy required from governmental authorities, if any are required, to construct a warehouse and office for its business on the Property on such terms and conditions as may be satisfactory to Purchaser. Seller agrees to timely execute any and all necessary applications and consents required by Purchaser to obtain the governmental approvals required pursuant to this Section 4(c). Seller also agrees to provide Purchaser with any preexisting permits, surveys, and other documents relating to the Property in Seller's possession which may be required by the Purchaser to obtain the governmental approvals required in this Section 4(c).

Notwithstanding the foregoing, provided Purchaser is utilizing commercially reasonable efforts to complete the due diligence and contingencies in this Paragraph 4(a) through (d), and if Purchaser is unable to complete such due diligence and/or obtain all necessary approvals and consents within the Initial Due Diligence and Contingency Period, then upon written notice to the Seller, the Purchaser shall have the option to extend the Initial Due Diligence and Contingency Period and also simultaneously extend the date of Closing under Paragraph 5 of this Agreement for one additional 90 day extension period ("90 Day Extension Period") without additional cost, provided such notice is given to Seller prior to the expiration of the Initial Due Diligence and Contingency Period. If the Initial Due Diligence and Contingency Period and/or the 90 Day Extension Period expires, then either Purchaser or Seller may terminate this Agreement by written notice of the other.

If any of the contingencies and due diligence requirements in this Paragraph 4 have not been satisfied or are found to be unsatisfactory to Purchaser in Purchaser's sole discretion on or before the expiration of the Initial Due Diligence and Contingency Period or the 90 Day Extension Period (i.e., 180 days after the Effective Date), as applicable, then this Agreement may be terminated by Purchaser upon the giving of written notice of such termination to Seller provided such notice is given on or before the expiration of the Initial Due Diligence and Contingency Period. Upon receipt of such termination, Purchaser's Deposit shall be promptly refunded without set off or deduction. If Purchaser does not terminate this Agreement in accordance with this paragraph prior to the expiration of the Initial Due Diligence and Contingency Period, as the same may be extended by the 90 Day Extension Period, then the Deposit shall become entirely non-refundable to Seller.

It is understood that the contingencies set forth herein are for Purchaser's benefit and may be waived by Purchaser in writing at any time.

Purchaser agrees to indemnify, defend and hold Seller harmless from all actual suits, causes of action, losses, payments and expenses (including but not limited to reasonable attorneys' fees) arising from: (i) any personal injury or property damage caused by Purchaser's negligence during the inspection of the Property; (ii) any and all mechanics', laborers', materialmen's or other liens asserted against the Property resulting from the Purchaser's foregoing inspections; and (iii) Purchaser's present (or that of Purchaser's representatives, agents, employees, lenders, contractors, appraisers, architects and engineers) on or at the Property during the term of this Agreement, which indemnity shall survive Closing or the earlier termination of this Agreement.

5. **Closing and Possession.** The closing and transfer of title to the Property ("Closing") shall occur on or about March 1, 2023, unless Purchaser elects in writing to Seller to close on its purchase of the Property on a sooner date. The date of Closing shall also be extended for an additional 90 day period (i.e., until on or about May 31, 2023) if Purchaser elects to extend the Initial Due Diligence and Contingency Period in Paragraph 4 of this Agreement. Closing shall take place at Purchaser's attorneys' office or at a location selected by Purchaser's lender. Purchaser shall have possession and occupancy of the Property from and after the date of Closing, free and clear of any leases, tenancies or rights of occupancy.

6. **Deed/Title Search/Survey.** Seller will deliver to Purchaser at closing a properly signed and notarized Bargain and Sale Deed with lien covenant. At least ten (10) business days prior to Closing, Seller will furnish and pay for fully guaranteed tax, title and United States Court searches for the Property, dated or redated subsequent to the date of this Agreement (the "Searches"). Purchaser shall be responsible for and shall pay the cost of redating and continuation of the Searches to and including the Closing. Seller shall also prepare, at Seller's sole cost and expense, an instrument survey of the Property dated or redated after the date of this Agreement for use by the Purchaser in conjunction with its proposed site approvals and for obtaining good and marketable title to the Property. The instrument survey shall prepared or re-dated and certified to meet the standards and requirements of the Genesee County Bar Association, Purchaser's lender, and of the responsible agency for subdivision, if applicable.

7. **Closing Costs.** At Closing, Seller shall pay any required transfer tax as well as any recording charges necessary to render good and marketable title as provided herein. Purchaser shall pay for any fees incurred for recording the deed and the mortgage and shall pay any mortgage recording taxes except as otherwise provided in Paragraph 8 below. Except as otherwise provided herein, each party shall bear its own costs, legal fees and expenses incurred hereunder without any claim against the other.

8. **Seller's Title.**

(a) Within ten (10) business days after the Purchaser's receipt of all of the title documents for the Property, including an updated survey and redated abstract, Purchaser's attorneys shall deliver to Seller's attorneys a written notice of any defects, encumbrances or other objections to title other than those to which this sale is subject. If it should appear that the Property is affected by any outstanding interest, or questions of title which render title unmarketable, or the intended use of the improvements illegal (being in violation of any effective law, ordinance, regulation or restriction), and as to which Purchaser is not obliged to take subject to in accordance with the terms of this Agreement, Seller shall have the option of either: (i) removing such outstanding interest or questions of title rendering title unmarketable or discharging such interest, for which purpose Seller

shall have a reasonable time from the receipt of Purchaser's written notice, but in no event beyond the date of the Closing as set forth in Paragraph 5 above, or alternatively, (ii) promptly terminating this Agreement. Notwithstanding the foregoing, if the Property shall be affected by any lien or encumbrance which may be discharged by the payment of an ascertainable amount, then it shall be Seller's obligation to discharge such lien or encumbrance. If Seller shall be unable to convey a good and marketable title, subject to and in accordance with the provisions hereof, Purchaser shall have the right to cancel this Agreement by giving written notice of such cancellation to the Seller whereupon all liability by reason of this Agreement shall cease; provided, however, if either party secures a commitment for title insurance containing standard exceptions only and provided that Purchaser agrees to accept title insurance as the solution to Seller's title problems, then Seller shall pay the cost thereof and in such event this Agreement shall remain and continue in full force and effect. Purchaser may, nevertheless, at its option, accept such title as Seller may be able to convey, without reduction of the purchase price or any credit or allowance against the same and without any other liability on the part of the Seller.

(b) Purchaser agrees to accept title to the Property subject to: (i) restrictions and easements of record common to the tract or subdivision in which the Property is located, provided the same have not been violated and do not prohibit the Purchaser's intended use of the Property for its warehouse and office uses; (ii) the lien of current real estate taxes not due and payable; and (iii) public utility easements along lot lines, provided Purchaser has determined such easements do not interfere with Purchaser's intended use of the Property for its warehouse and office uses.

(c) WITH THE EXCEPTION OF THE REPRESENTATIONS CONTAINED IN PARAGRAPHS 2, 8 AND 9, PURCHASER ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS BEING CONVEYED BY SELLER IN "AS-IS" CONDITION, THAT PURCHASER IS FULLY FAMILIAR WITH THE CONDITION OF THE PROPERTY, AND THAT PURCHASER IS BUYING THE PROPERTY BASED SOLELY ON PURCHASER'S KNOWLEDGE OF THE PROPERTY AND NOT IN RELIANCE ON ANY REPRESENTATION MADE BY SELLER OR ANY EMPLOYEE OR AGENT OF SELLER. SELLER EXPRESSLY DISCLAIMS, AND PURCHASER ACKNOWLEDGES SUCH DISCLAIMER, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING THE PROPERTY EXCEPT AS EXPRESSLY SET FORTH HEREIN, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES REGARDING THE PHYSICAL CONDITION OR ENVIRONMENTAL COMPLIANCE OF THE PROPERTY. THE REPRESENTATIONS AND DISCLAIMER CONTAINED IN THIS SECTION SHALL SURVIVE CLOSING.

9. **Representations and Warranties of Seller.** Seller represents and warrants to Purchaser that:

(a) This Agreement constitutes the legal and binding obligation of Seller, enforceable in accordance with its terms.

(b) Seller represents that the Property is not currently subject to any leases. Seller will not enter into any leases, contracts, agreements, or other arrangements affecting the Property or its tenants without the prior written consent of Purchaser. Purchaser's ownership of the Property is not to be subject to any agreements, contracts, or leases. ¹

¹ Seller to confirm this is true.

(c) Seller represents and warrants that Seller has not received any written notice from state or local authorities that the Property will be subject to any other eminent domain proceedings, appropriate, or other construction which would require the loss of any portion of the Property.

(d) Seller has no actual knowledge of: (i) the presence of any underground storage tanks on the Property or (ii) the presence of any actual or threatened environmental contamination or Hazardous Substances on or under the Property. Seller has not received any written notices from federal, state, or local regulatory authorities of any violation of the Property of any federal, New York State, or local laws, rules, regulations or ordinances, including any Environmental Laws and regulations. For purposes of this paragraph 9(d), "Environmental Laws" shall mean all federal, state and local environmental, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance and the rules, regulations, and orders with respect thereto. "Hazardous Substance" means, without limitation, any flammable, explosive or radioactive material, asbestos, polychlorinated biphenyl, petroleum or petroleum product, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, *et seq.*), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Appendix Sections 1801, *et seq.*), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, *et seq.*), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, *et seq.*), Articles 15 and 27 of the New York State Environmental Conservation Law, the New York Navigation Law, or any other Environmental Laws and the regulations promulgated thereunder whether now or hereafter adopted.

(e) To the best of Seller's knowledge, the Property meets all applicable federal, state, and local governmental laws and regulations.

10. Deliveries and Closing Condition

(a) At Closing, Seller shall deliver to Purchaser the following:

(i) Duly executed and acknowledged Bargain and Sale Deed with full covenants conveying title to the Property free and clear of all liens and encumbrances;

(ii) Affidavits or other certificates or documents reasonably required by the Purchaser or the title insurance company, if any, in order to insure title in the condition required by this Agreement;

(iii) All other certificates, affidavits, warranty assignments, bills of sale, and other documents or instruments reasonably requested and as required by this Agreement to effectuate the terms and conditions hereof, if any.

(b) At Closing, Purchaser shall deliver to Seller the following:

(i) Payment of \$850,000.

(ii) such other certificates, documents and instruments reasonably requested and as required by this Agreement to effectuate the terms and conditions hereof.

11. **Condemnation.** If during the pendency of this Agreement Seller receives written notice pursuant to the Eminent Domain Procedure Law of the State of New York that any portion of the Property is to be taken by condemnation or purchased in lieu thereof, Seller shall give Purchaser written notice thereof and, if such portion to be condemned is material (i.e., remaining property cannot be used for the purposes contemplated under this Agreement), Purchaser shall have the right to terminate this Agreement or confirm that this Agreement shall continue in full force and effect within ten (10) days of Seller's notice of the condemnation. In the absence of such timely notice, Purchaser will not be deemed to have waived any such right of termination. If Purchaser does not exercise its right to terminate, Seller shall assign to Purchaser any claim for compensation to such condemned portion of the Property. If an immaterial portion of the Property is taken (i.e. the Property can still be used for Purchaser's intended use), Purchaser shall be required to proceed under this Agreement and accept an assignment of the compensation for such portion of the Property condemned.

12. **Adjustments.** Real property taxes shall be adjusted and prorated between the parties at Closing. Any past due real estate taxes, assessments, and related interest and penalties shall be paid by Seller.

13. **Notices.**

(a) Any notice, communication, approval, disapproval, request or reply (hereinafter called "Notice") provided for in this Agreement or permitted to be given, made or accepted by either party to the other, must be in writing, and shall be given or served by delivery in person, by Federal Express or similar overnight courier service or by postpaid certified or registered mail addressed to the party notified. For purposes of Notice, the addresses for the parties, unless changed as hereinafter provided, shall be:

Purchaser: Jacob Berardi
c/o J. Rental, Inc.
5885 Transit Road
East Amherst, New York 14051

with a copy to: E. Adam Leyens, PLLC
1534 Monroe Avenue
Rochester, New York 14618

Seller: Genesee County Industrial Development Agency
d/b/a Genesee County Economic Development Center
c/o Mark A. Masse
99 MedTech Drive
Batavia, New York 14020

with a copy to: Harris Beach PLLC
Russ Gaenzle
99 Garnsey Road
Pittsford, New York 14534
Tel: 585.419.8718
E-mail: rgaenzle@harrisbeach.com

(b) Each party hereto shall have the right from time to time to change its address, by giving Notice in writing of no less than five (5) business days to the other party as herein provided.

Any Notice delivered hereunder shall be deemed delivered upon personal delivery or, if by mail, on the third day after mailing or, if by nationally recognized overnight courier service, on the next business day.

14. **Broker's Commission.** Seller and Purchaser agree that no broker brought about the sale of the Property. Any party making a misrepresentation or misstatement of fact hereunder shall indemnify and hold the other party harmless from any claim, liability and expense including attorney's fees, resulting from such misrepresentation or misstatement of fact.

15. **Miscellaneous.**

(a) This Agreement, and the terms, covenants and conditions herein contained, shall inure to the benefit of and be binding upon the respective heirs, beneficiaries, successors and assigns of the parties hereto. Neither party may assign its rights hereunder to any other person or entity without the prior written consent of the other party, provided, however, Purchaser shall be permitted to assign this Agreement to an affiliate, parent or subsidiary without obtaining Seller's consent so long as Purchaser remains fully responsible for Purchaser's obligations hereunder and Purchaser provides Seller with a notice of assignment, together with a copy of the applicable assignment and assumption agreement. **NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, PURCHASER MAY ASSIGN ITS RIGHTS HEREUNDER TO A NEW YORK LIMITED LIABILITY COMPANY OR OTHER ENTITY, PROVIDED THAT PURCHASER PROVIDES SELLER NOTICE OF SUCH ASSIGNMENT AT LEAST 5 DAYS PRIOR TO CLOSING.**

(b) All personal pronouns used in this Agreement shall include the other genders, and the singular shall include the plural, whenever and as often as may be appropriate.

(c) This Agreement shall be governed by and construed and enforced under the laws of the State of New York without regard to principles of conflicts of laws. The parties hereto agree to the jurisdiction of the New York State Supreme Court and to venue in Genesee County.

(d) No variation, modification or alteration of this Agreement shall be binding on either party hereto unless set forth in a document executed by such party or a duly authorized agent, officer or representative thereof.

(e) The captions contained in this Agreement are for the convenience of the parties only and shall not be deemed a part of the context of this Agreement.

(f) The parties hereto agree to execute and deliver all other documents required, provide all necessary information, and take or forebear from all actions as may be necessary or appropriate to achieve the purposes of this Agreement.

(g) This Agreement contains the entire agreement between Seller and Purchaser, and except as otherwise set forth in the Agreement, no oral statements or prior written matter not specifically incorporated herein shall be of force or effect.

(h) The provisions of Paragraphs 9 and 14, and this Paragraph 15 of this Agreement shall survive the Closing and transfer of title to the Property.

(i) This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one

and the same agreement. This Agreement shall be binding on the parties as soon as each party whose signature is required to make it effective has signed at least one copy of it, even if no copy has been signed by all parties. Delivery by a party of a copy of this Agreement containing that party's signature which is conveyed by facsimile, photostatic, or similar method to the party or its counsel shall be sufficient for purposes of execution and delivery of this Agreement by that party.

16. **Risk of Loss.** Risk of loss or damage to the Property by fire or other casualty until transfer of title shall be assumed by the Seller. If damage to the Property by fire or such other casualty occurs prior to transfer, Purchaser may cancel this Agreement without any further liability to Seller and Purchaser's deposit will be returned. If Purchaser does not cancel but elects to close, then Seller shall transfer to Purchaser any insurance proceeds, or Seller's claim to insurance proceeds payable for such damage.

17. **Cessation of Operations.** In the event Purchaser ceases operations at the Property or ceases the active use of the Property on or before the termination of a certain Tax Agreement to be entered into between Purchaser and Seller, Seller has the right to demand and collect an additional Ten Thousand Dollars (\$10,000) per acre purchase price. The parties acknowledge and agree that such purchase price increase terms shall be more formally set forth in the financial assistance documents to be entered into between Seller and Purchaser.

18. **Common Area Charges/Community Fees.** Purchaser shall pay subsequent to closing, common area fees in connection with the AppleTree Acres Corporate Park of Four Hundred Dollars (\$400) annually for the first two years following Closing, and annual increases thereafter at the lesser of (i) five percent (5%) or (ii) increases in the Consumer Price Index for Urban Consumers from the preceding year. The deed of conveyance shall provide for the payment of such fee.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

PURCHASER:

Dated: December __, 2022

Jacob Berardi on behalf of a to-be-formed
New York limited liability company)

SELLER:

Dated: December __, 2022

**Genesee County Industrial Development
Agency d/b/a Genesee County Economic
Development Center**

By: _____

AUTHORIZING RESOLUTION

(Purchase and Sale of Real Property – Jacob Berardi on behalf of an Entity to be Formed)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, _____, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. __/2022 - _____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") AUTHORIZING (i) THE SALE OF CERTAIN AGENCY OWNED REAL PROPERTY TO JACOB BERARDI ON BEHALF OF AN ENTITY TO BE FORMED, AND (ii) THE EXECUTION OF A PURCHASE AND SALE AGREEMENT, A DEED, AN EASEMENT AGREEMENT, AND RELATED DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, among other property, the Agency owns approximately 32.10 acres of vacant land located on Apple Tree Avenue, in the Town of Bergen, Genesee County, New York known as tax account number 13.-1-65 (the "Land");

WHEREAS, **JACOB BERARDI on behalf of an entity to be formed** (the "Company") has offered to purchase the Land in connection with a certain project to be undertaken by the Company thereon pursuant to the terms and conditions of that certain Purchase and Sale Agreement, the form of which is attached hereto as Exhibit A (the "Purchase and Sale Agreement"); and

WHEREAS, the Agency desires to adopt a resolution authorizing (i) the sale of the Land to the Company and (ii) the execution of the Purchase and Sale Agreement, a deed and related documents; and

WHEREAS, the Purchase and Sale Agreement, the deed, and related documents in connection therewith have been negotiated and are presented to this meeting for approval and execution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Agency is hereby authorized to sell the Land to the Company pursuant to the terms and conditions of the Purchase and Sale Agreement.

Section 2. The Chairman, Vice Chairman, President/CEO and/or Senior Vice President of Operations of the Agency are hereby authorized to execute the Purchase and Sale Agreement, the deed, the easement agreement and related documents in connection therewith, if any.

Section 3. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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 the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 4. Harris Beach PLLC shall be entitled to attorney fees, exclusive of third party costs (i.e. recording costs, survey, etc.) not to exceed \$8,000.00 subject to no substantive title issues, municipal approval issues and/or environmental issues arising in connection with the purchase and sale of the Land.

Section 5. These Resolutions shall take effect immediately.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zeliff	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION

(Purchase and Sale of Real Property – Bert Berardi)

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

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on March 29, 2018, 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 such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this _____ day of _____, 2022.

Secretary

EXHIBIT A

Form of Purchase and Sale Agreement

(Attached Next Page)

Review of Purchase and Sale Agreement for LeRoy Property

Discussion: The GCEDC has received a Purchase and Sale Agreement from a potential project to acquire approximately 20 acres out of tax parcel 25.-1-75 for \$1,107,150.

Fund Commitment: Legal fees to Harris Beach for the transaction as listed in the resolution.

Committee Action Request: Recommend approval of Purchase and Sale Agreement and payment of legal fees in connection with closing.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement"), is made and executed this ____ day of December, 2022 (the "Effective Date"), by and between **Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center**, located at 99 MedTech Drive, Batavia, New York 14020 ("Seller") and **Walden Development Group, LLC**, a New York limited liability company, located at 2721 Transit Road, Elma, New York 14059 ("Purchaser").

WITNESSETH:

WHEREAS, Seller is the owner of the real property and improvements located at Route 19 and West Bergen Road, in the Town of LeRoy, County of Genesee, State of New York; and

WHEREAS, Seller desires to sell approximately 20.13 acres in the Town of LeRoy, County of Genesee, State of New York known as part of tax account no. 25.-1-75, to Purchaser, and Purchaser desires to purchase the real property and improvements thereon upon the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and representations herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Property.** The real property to be conveyed consists of unimproved property identified in red on the diagram attached hereto as **Exhibit A** consisting of approximately 20.13 ± acres ("Land") situated on West Bergen Road, Town of LeRoy, County of Genesee, State of New York, together with all right, title, and interest of Seller in and to (a) any and all easements and rights-of-way appurtenant to the Land; (b) any and all lands lying in the bed of any streets, roads, highways, alleys or driveways in front of and adjoining the Land; and (c) any and all strips and gores adjacent to or abutting the Land, and also together with the existing parking areas and driveways on the Land ("Property").

2. **Condition of Property.** The Property shall be conveyed free of any and all liens, encumbrances, security agreements or other financing devices except as provided in Paragraph 8 of this Agreement (such exceptions in Paragraph 8 constituting "Permitted Encumbrances").

3. **Purchase Price and Deposit.** The purchase price for the Property (the "Purchase Price") shall be **ONE MILLION ONE HUNDRED THOUSAND ONE HUNDRED FIFTY DOLLARS AND NO/100 DOLLARS (\$1,107,150.00)** payable to Seller in cash or a bank check, or by wire, at Closing (as such term is hereinafter defined). Within two (2) days of the Effective Date, Purchaser shall deposit with Seller's attorney in the attorney's noninterest bearing IOLA trust account the sum of Twenty Thousand and No/100 Dollars (\$50,000.00) (the "Deposit") to be credited towards the Purchase Price at Closing. The Deposit shall be refundable until the expiration of the Initial Due Diligence Period or the 90 Day Extension Period (as such terms are hereinafter defined), as applicable, at which time the Deposit shall become nonrefundable, but applicable to the Purchase Price in the event the transaction closes.

4. **Purchaser's Contingencies.** This Agreement, and Purchaser's obligations hereunder, shall be expressly contingent upon the following:

(a) Purchaser shall have the right, to conduct at its sole cost and expense within the initial ninety (90) day period after the Effective Date ("Initial Due Diligence and Contingency"), Phase I and Phase II environmental assessments on the Property by an environmental engineer acceptable to Purchaser and Purchaser's lender, which reports shall be certified to Purchaser, and the results of which shall be satisfactory to Purchaser in its sole discretion. The Purchaser shall also receive from Seller within five (5) business days after the Effective Date, copies of all written reports for Phase I, Phase II, and Phase III environmental assessments for the Property in the possession of Seller, if any, which results shall be satisfactory to Purchaser in its sole discretion. Nothing herein shall require Purchaser to conduct a Phase I or Phase II environmental site assessment or assume responsibility for any existing environmental contamination which is found to be present on or under the Property. Notwithstanding the foregoing, Purchaser shall, upon completion of its environmental assessments, be responsible for restoring the Property to substantially the same condition as existed on the Property prior to the undertaking of such assessments.

(b) This offer is contingent upon: (i) Purchaser being able to obtain financing for the purchase of the Property on terms satisfactory to Purchaser in Purchaser's sole discretion on or before the expiration of the Initial Due Diligence and Contingency Period and (ii) upon Purchaser's receipt of such funds at Closing.

(c) On or before the expiration of the Initial Due Diligence and Contingency Period, Purchaser shall have received, at its sole cost and expense, all necessary governmental approvals, including zoning approvals, permits, consents, site plan approvals, subdivision or land separation approval, variances, and certificates of occupancy required from governmental authorities, if any are required, to construct a warehouse and office for its business on the Property on such terms and conditions as may be satisfactory to Purchaser. Seller agrees to timely execute any and all necessary applications and consents required by Purchaser to obtain the governmental approvals required pursuant to this Section 4(c). Seller also agrees to provide Purchaser with any preexisting permits, surveys, and other documents relating to the Property in Seller's possession which may be required by the Purchaser to obtain the governmental approvals required in this Section 4(c).

Notwithstanding the foregoing, provided Purchaser is utilizing commercially reasonable efforts to complete the due diligence and contingencies in this Paragraph 4(a) through (d), and if Purchaser is unable to complete such due diligence and/or obtain all necessary approvals and consents within the Initial Due Diligence and Contingency Period, then upon written notice to the Seller, the Purchaser shall have the option to extend the Initial Due Diligence and Contingency Period and also simultaneously extend the date of Closing under Paragraph 5 of this Agreement for one additional 90 day extension period ("90 Day Extension Period") without additional cost, provided such notice is given to Seller prior to the expiration of the Initial Due Diligence and Contingency Period. If the Initial Due Diligence and Contingency Period and/or the 90 Day Extension Period expires, then either Purchaser or Seller may terminate this Agreement by written notice of the other.

If any of the contingencies and due diligence requirements in this Paragraph 4 have not been satisfied or are found to be unsatisfactory to Purchaser in Purchaser's sole discretion on or before the expiration of the Initial Due Diligence and Contingency Period or the 90 Day Extension Period (i.e., 180 days after the Effective Date), as applicable, then this Agreement may be terminated by Purchaser upon the giving of written notice of such termination to Seller provided such notice is given on or before the expiration of the Initial Due Diligence and Contingency Period. Upon receipt of such termination, Purchaser's Deposit shall be promptly refunded without set off or deduction. If

Purchaser does not terminate this Agreement in accordance with this paragraph prior to the expiration of the Initial Due Diligence and Contingency Period, as the same may be extended by the 90 Day Extension Period, then the Deposit shall become entirely non-refundable to Seller.

It is understood that the contingencies set forth herein are for Purchaser's benefit and may be waived by Purchaser in writing at any time.

Purchaser agrees to indemnify, defend and hold Seller harmless from all actual suits, causes of action, losses, payments and expenses (including but not limited to reasonable attorneys' fees) arising from: (i) any personal injury or property damage caused by Purchaser's negligence during the inspection of the Property; (ii) any and all mechanics', laborers', materialmen's or other liens asserted against the Property resulting from the Purchaser's foregoing inspections; and (iii) Purchaser's present (or that of Purchaser's representatives, agents, employees, lenders, contractors, appraisers, architects and engineers) on or at the Property during the term of this Agreement, which indemnity shall survive Closing or the earlier termination of this Agreement.

5. **Closing and Possession.** The closing and transfer of title to the Property ("Closing") shall occur on or about March 1, 2023, unless Purchaser elects in writing to Seller to close on its purchase of the Property on a sooner date. The date of Closing shall also be extended for an additional 90 day period (i.e., until on or about May 31, 2023) if Purchaser elects to extend the Initial Due Diligence and Contingency Period in Paragraph 4 of this Agreement. Closing shall take place at Purchaser's attorneys' office or at a location selected by Purchaser's lender. Purchaser shall have possession and occupancy of the Property from and after the date of Closing, free and clear of any leases, tenancies or rights of occupancy.

6. **Deed/Title Search/Survey.** Seller will deliver to Purchaser at closing a properly signed and notarized Bargain and Sale Deed with lien covenant. At least ten (10) business days prior to Closing, Seller will furnish and pay for fully guaranteed tax, title and United States Court searches for the Property, dated or redated subsequent to the date of this Agreement (the "Searches"). Purchaser shall be responsible for and shall pay the cost of redating and continuation of the Searches to and including the Closing. Seller shall also prepare, at Seller's sole cost and expense, an instrument survey of the Property dated or redated after the date of this Agreement for use by the Purchaser in conjunction with its proposed site approvals and for obtaining good and marketable title to the Property. The instrument survey shall prepared or re-dated and certified to meet the standards and requirements of the Genesee County Bar Association, Purchaser's lender, and of the responsible agency for subdivision, if applicable.

7. **Closing Costs.** At Closing, Seller shall pay any required transfer tax as well as any recording charges necessary to render good and marketable title as provided herein. Purchaser shall pay for any fees incurred for recording the deed and the mortgage and shall pay any mortgage recording taxes except as otherwise provided in Paragraph 8 below. Except as otherwise provided herein, each party shall bear its own costs, legal fees and expenses incurred hereunder without any claim against the other.

8. **Seller's Title.**

(a) Within ten (10) business days after the Purchaser's receipt of all of the title documents for the Property, including an updated survey and redated abstract, Purchaser's attorneys shall deliver to Seller's attorneys a written notice of any defects, encumbrances or other objections to title other than those to which this sale is subject. If it should appear that the Property is affected by any outstanding interest, or questions of title which render title unmarketable, or the intended use

of the improvements illegal (being in violation of any effective law, ordinance, regulation or restriction), and as to which Purchaser is not obliged to take subject to in accordance with the terms of this Agreement, Seller shall have the option of either: (i) removing such outstanding interest or questions of title rendering title unmarketable or discharging such interest, for which purpose Seller shall have a reasonable time from the receipt of Purchaser's written notice, but in no event beyond the date of the Closing as set forth in Paragraph 5 above, or alternatively, (ii) promptly terminating this Agreement. Notwithstanding the foregoing, if the Property shall be affected by any lien or encumbrance which may be discharged by the payment of an ascertainable amount, then it shall be Seller's obligation to discharge such lien or encumbrance. If Seller shall be unable to convey a good and marketable title, subject to and in accordance with the provisions hereof, Purchaser shall have the right to cancel this Agreement by giving written notice of such cancellation to the Seller whereupon all liability by reason of this Agreement shall cease; provided, however, if either party secures a commitment for title insurance containing standard exceptions only and provided that Purchaser agrees to accept title insurance as the solution to Seller's title problems, then Seller shall pay the cost thereof and in such event this Agreement shall remain and continue in full force and effect. Purchaser may, nevertheless, at its option, accept such title as Seller may be able to convey, without reduction of the purchase price or any credit or allowance against the same and without any other liability on the part of the Seller.

(b) Purchaser agrees to accept title to the Property subject to: (i) restrictions and easements of record common to the tract or subdivision in which the Property is located, provided the same have not been violated and do not prohibit the Purchaser's intended use of the Property for its warehouse and office uses; (ii) the lien of current real estate taxes not due and payable; and (iii) public utility easements along lot lines, provided Purchaser has determined such easements do not interfere with Purchaser's intended use of the Property for its warehouse and office uses.

(c) WITH THE EXCEPTION OF THE REPRESENTATIONS CONTAINED IN PARAGRAPHS 2, 8 AND 9, PURCHASER ACKNOWLEDGES AND AGREES THAT THE PROPERTY IS BEING CONVEYED BY SELLER IN "AS-IS" CONDITION, THAT PURCHASER IS FULLY FAMILIAR WITH THE CONDITION OF THE PROPERTY, AND THAT PURCHASER IS BUYING THE PROPERTY BASED SOLELY ON PURCHASER'S KNOWLEDGE OF THE PROPERTY AND NOT IN RELIANCE ON ANY REPRESENTATION MADE BY SELLER OR ANY EMPLOYEE OR AGENT OF SELLER. SELLER EXPRESSLY DISCLAIMS, AND PURCHASER ACKNOWLEDGES SUCH DISCLAIMER, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING THE PROPERTY EXCEPT AS EXPRESSLY SET FORTH HEREIN, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATIONS OR WARRANTIES REGARDING THE PHYSICAL CONDITION OR ENVIRONMENTAL COMPLIANCE OF THE PROPERTY. THE REPRESENTATIONS AND DISCLAIMER CONTAINED IN THIS SECTION SHALL SURVIVE CLOSING.

9. Representations and Warranties of Seller. Seller represents and warrants to Purchaser that:

(a) This Agreement constitutes the legal and binding obligation of Seller, enforceable in accordance with its terms.

(b) Seller represents that the Property is not currently subject to any leases. Seller will not enter into any leases, contracts, agreements, or other arrangements affecting the Property or its

tenants without the prior written consent of Purchaser. Purchaser's ownership of the Property is not to be subject to any agreements, contracts, or leases. ¹

(c) Seller represents and warrants that Seller has not received any written notice from state or local authorities that the Property will be subject to any other eminent domain proceedings, appropriate, or other construction which would require the loss of any portion of the Property.

(d) Seller has no actual knowledge of: (i) the presence of any underground storage tanks on the Property or (ii) the presence of any actual or threatened environmental contamination or Hazardous Substances on or under the Property. Seller has not received any written notices from federal, state, or local regulatory authorities of any violation of the Property of any federal, New York State, or local laws, rules, regulations or ordinances, including any Environmental Laws and regulations. For purposes of this paragraph 9(d), "Environmental Laws" shall mean all federal, state and local environmental, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance and the rules, regulations, and orders with respect thereto. "Hazardous Substance" means, without limitation, any flammable, explosive or radioactive material, asbestos, polychlorinated biphenyl, petroleum or petroleum product, methane, hazardous materials, hazardous wastes, hazardous or toxic substances or related materials, as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, *et seq.*), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Appendix Sections 1801, *et seq.*), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Sections 6901, *et seq.*), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601, *et seq.*), Articles 15 and 27 of the New York State Environmental Conservation Law, the New York Navigation Law, or any other Environmental Laws and the regulations promulgated thereunder whether now or hereafter adopted.

(e) To the best of Seller's knowledge, the Property meets all applicable federal, state, and local governmental laws and regulations.

10. Deliveries and Closing Condition

(a) At Closing, Seller shall deliver to Purchaser the following:

(i) Duly executed and acknowledged Bargain and Sale Deed with full covenants conveying title to the Property free and clear of all liens and encumbrances;

(ii) Affidavits or other certificates or documents reasonably required by the Purchaser or the title insurance company, if any, in order to insure title in the condition required by this Agreement;

(iii) All other certificates, affidavits, warranty assignments, bills of sale, and other documents or instruments reasonably requested and as required by this Agreement to effectuate the terms and conditions hereof, if any.

(b) At Closing, Purchaser shall deliver to Seller the following:

(i) Payment of \$1,107,150.

¹ Seller to confirm this is true.

- (ii) such other certificates, documents and instruments reasonably requested and as required by this Agreement to effectuate the terms and conditions hereof.

11. **Condemnation.** If during the pendency of this Agreement Seller receives written notice pursuant to the Eminent Domain Procedure Law of the State of New York that any portion of the Property is to be taken by condemnation or purchased in lieu thereof, Seller shall give Purchaser written notice thereof and, if such portion to be condemned is material (i.e., remaining property cannot be used for the purposes contemplated under this Agreement), Purchaser shall have the right to terminate this Agreement or confirm that this Agreement shall continue in full force and effect within ten (10) days of Seller's notice of the condemnation. In the absence of such timely notice, Purchaser will not be deemed to have waived any such right of termination. If Purchaser does not exercise its right to terminate, Seller shall assign to Purchaser any claim for compensation to such condemned portion of the Property. If an immaterial portion of the Property is taken (i.e. the Property can still be used for Purchaser's intended use), Purchaser shall be required to proceed under this Agreement and accept an assignment of the compensation for such portion of the Property condemned.

12. **Adjustments.** Real property taxes shall be adjusted and prorated between the parties at Closing. Any past due real estate taxes, assessments, and related interest and penalties shall be paid by Seller.

13. **Notices.**

(a) Any notice, communication, approval, disapproval, request or reply (hereinafter called "Notice") provided for in this Agreement or permitted to be given, made or accepted by either party to the other, must be in writing, and shall be given or served by delivery in person, by Federal Express or similar overnight courier service or by postpaid certified or registered mail addressed to the party notified. For purposes of Notice, the addresses for the parties, unless changed as hereinafter provided, shall be:

Purchaser: Walden Development Group
c/o Andrew J. DeVincentis
2721 Transit Road, Suite 114
Elma, New York 14059

with a copy to:

Seller: Genesee County Industrial Development Agency
d/b/a Genesee County Economic Development Center
c/o Mark A. Masse
99 MedTech Drive
Batavia, New York 14020

with a copy to: Harris Beach PLLC
Russ Gaenzle
99 Garnsey Road
Pittsford, New York 14534
Tel: 585.419.8718
E-mail: rgaenzle@harrisbeach.com

(b) Each party hereto shall have the right from time to time to change its address, by giving Notice in writing of no less than five (5) business days to the other party as herein provided. Any Notice delivered hereunder shall be deemed delivered upon personal delivery or, if by mail, on the third day after mailing or, if by nationally recognized overnight courier service, on the next business day.

14. **Broker's Commission.** Seller and Purchaser agree that Pyramid Brokerage Company of Buffalo brought about the sale of the Property.

15. **Miscellaneous.**

(a) This Agreement, and the terms, covenants and conditions herein contained, shall inure to the benefit of and be binding upon the respective heirs, beneficiaries, successors and assigns of the parties hereto. Neither party may assign its rights hereunder to any other person or entity without the prior written consent of the other party, provided, however, Purchaser shall be permitted to assign this Agreement to an affiliate, parent or subsidiary without obtaining Seller's consent so long as Purchaser remains fully responsible for Purchaser's obligations hereunder and Purchaser provides Seller with a notice of assignment, together with a copy of the applicable assignment and assumption agreement. **NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, PURCHASER MAY ASSIGN ITS RIGHTS HEREUNDER TO A NEW YORK LIMITED LIABILITY COMPANY OR OTHER ENTITY, PROVIDED THAT PURCHASER PROVIDES SELLER NOTICE OF SUCH ASSIGNMENT AT LEAST 5 DAYS PRIOR TO CLOSING.**

(b) All personal pronouns used in this Agreement shall include the other genders, and the singular shall include the plural, whenever and as often as may be appropriate.

(c) This Agreement shall be governed by and construed and enforced under the laws of the State of New York without regard to principles of conflicts of laws. The parties hereto agree to the jurisdiction of the New York State Supreme Court and to venue in Genesee County.

(d) No variation, modification or alteration of this Agreement shall be binding on either party hereto unless set forth in a document executed by such party or a duly authorized agent, officer or representative thereof.

(e) The captions contained in this Agreement are for the convenience of the parties only and shall not be deemed a part of the context of this Agreement.

(f) The parties hereto agree to execute and deliver all other documents required, provide all necessary information, and take or forebear from all actions as may be necessary or appropriate to achieve the purposes of this Agreement.

(g) This Agreement contains the entire agreement between Seller and Purchaser, and except as otherwise set forth in the Agreement, no oral statements or prior written matter not specifically incorporated herein shall be of force or effect.

(h) The provisions of Paragraphs 9 and 14, and this Paragraph 15 of this Agreement shall survive the Closing and transfer of title to the Property.

(i) This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement. This Agreement shall be binding on the parties as soon as each party whose signature is required to make it effective has signed at least one copy of it, even if no copy has been signed by all parties. Delivery by a party of a copy of this Agreement containing that party's signature which is conveyed by facsimile, photostatic, or similar method to the party or its counsel shall be sufficient for purposes of execution and delivery of this Agreement by that party.

16. **Risk of Loss.** Risk of loss or damage to the Property by fire or other casualty until transfer of title shall be assumed by the Seller. If damage to the Property by fire or such other casualty occurs prior to transfer, Purchaser may cancel this Agreement without any further liability to Seller and Purchaser's deposit will be returned. If Purchaser does not cancel but elects to close, then Seller shall transfer to Purchaser any insurance proceeds, or Seller's claim to insurance proceeds payable for such damage.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

PURCHASER:

Dated: December __, 2022

Andrew J. DeVincentis, Assistant Manager
Walden Development Group
(A New York limited liability company)

SELLER:

Dated: December __, 2022

**Genesee County Industrial Development
Agency d/b/a Genesee County Economic
Development Center**

By: _____

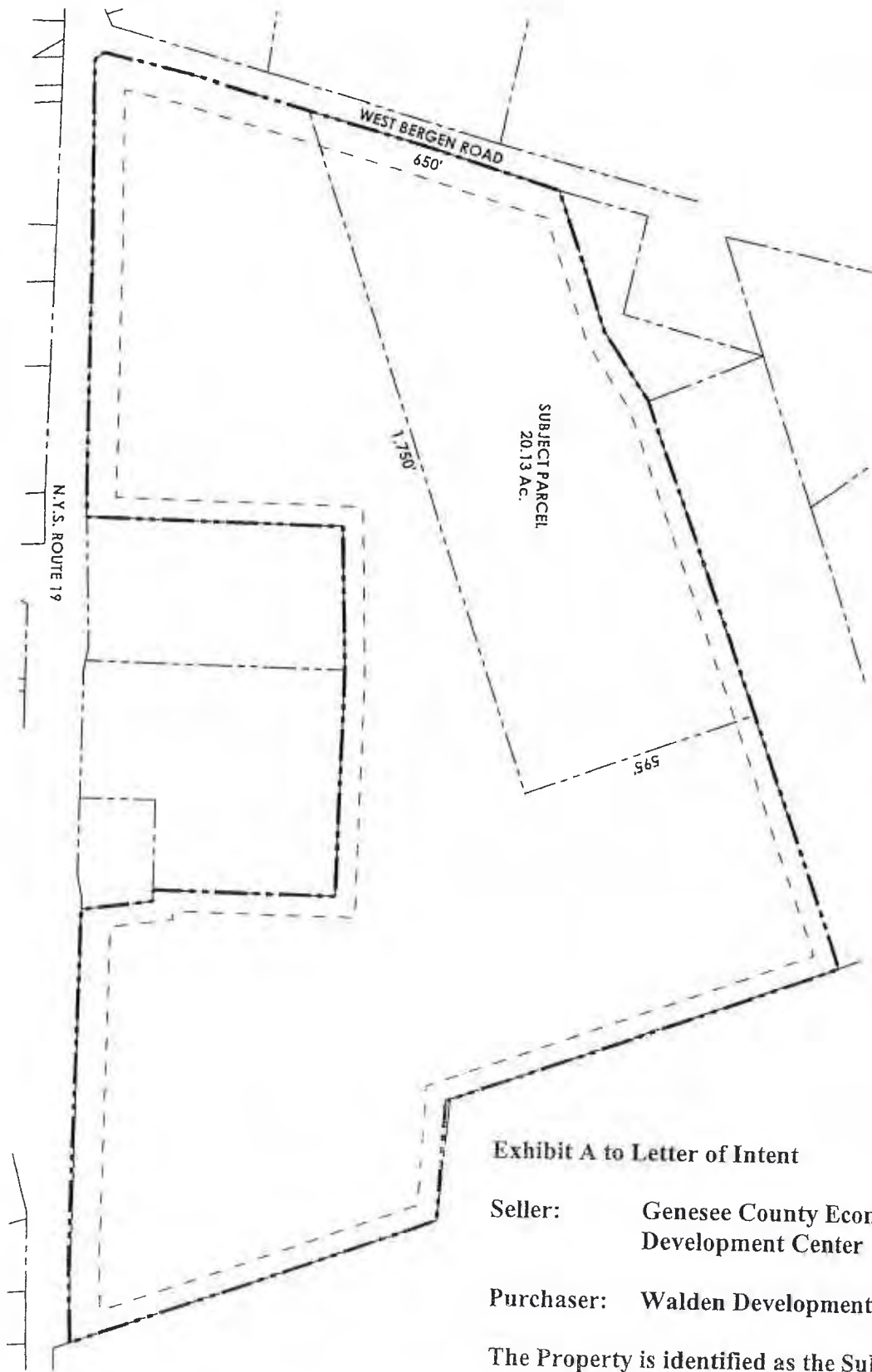


Exhibit A to Letter of Intent

Seller: Genesee County Economic
Development Center

Purchaser: Walden Development Group, LLC

The Property is identified as the Subject Parcel

AUTHORIZING RESOLUTION

(Purchase and Sale of Real Property – Walden Development Group, LLC)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, _____, 2022.

The following resolution was duly offered and seconded, to wit:

Resolution No. ___/2022 - _____

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") AUTHORIZING (i) THE SALE OF CERTAIN AGENCY OWNED REAL PROPERTY TO WALDEN DEVELOPMENT GROUP, LLC, AND (ii) THE EXECUTION OF A PURCHASE AND SALE AGREEMENT, A DEED, AN EASEMENT AGREEMENT, AND RELATED DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), the **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, among other property, the Agency owns approximately 20.13 acres of vacant land located at Lake Street Road, in the Town of LeRoy, Genesee County, New York known as part of tax account number 25.-1-75 (the "Land");

WHEREAS, **WALDEN DEVELOPMENT GROUP, LLC and its permitted assigns** (the "Company") has offered to purchase the Land in connection with a certain project to be undertaken by the Company thereon pursuant to the terms and conditions of that certain Purchase and Sale Agreement, the form of which is attached hereto as Exhibit A (the "Purchase and Sale Agreement"); and

WHEREAS, the Agency desires to adopt a resolution authorizing (i) the sale of the Land to the Company and (ii) the execution of the Purchase and Sale Agreement, a deed and related documents; and

WHEREAS, the Purchase and Sale Agreement, the deed, and related documents in connection therewith have been negotiated and are presented to this meeting for approval and execution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Agency is hereby authorized to sell the Land to the Company pursuant to the terms and conditions of the Purchase and Sale Agreement.

Section 2. The Chairman, Vice Chairman, President/CEO and/or Senior Vice President of Operations of the Agency are hereby authorized to execute the Purchase and Sale Agreement, the deed, the easement agreement and related documents in connection therewith, if any.

Section 3. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such 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 the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 4. Harris Beach PLLC shall be entitled to attorney fees, exclusive of third party costs (i.e. recording costs, survey, etc.) not to exceed \$13,000.00 subject to no substantive title issues, municipal approval issues and/or environmental issues arising in connection with the purchase and sale of the Land.

Section 5. These Resolutions shall take effect immediately.

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

	<i>Yea</i>		<i>Nay</i>		<i>Absent</i>		<i>Abstain</i>	
Peter Zeliff	[]	[]	[]	[]
Matthew Gray	[]	[]	[]	[]
Paul Battaglia	[]	[]	[]	[]
Craig Yunker	[]	[]	[]	[]
Todd Bender	[]	[]	[]	[]
Chandy Kemp	[]	[]	[]	[]
Marianne Clattenburg	[]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION

(Purchase and Sale of Real Property – Bert Berardi)

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

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on _____, 2022, 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 such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this ____ day of _____, 2022.

Secretary

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EXHIBIT A

Form of Purchase and Sale Agreement

(Attached Next Page)

Exhibit A

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Error! Unknown document property name.

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November 22, 2022

Chris Suozzi, VP Business & Workforce Development
Genesee County Economic Development Center
99 MedTech Drive; Suite 106
Batavia, New York 14020
Chris Suozzi <csuozzi@gcedc.com>

RE: Walden Development Group, LLC – Genesee County Economic
Development Center

Property: Approximate address 8778 West Bergen Road (near the corner of
Lake St (Route 19) West Bergen Rd); Town of Leroy, New York
("Property")

Dear Chris:

This letter shall serve as registration of Walden Development Group, LLC ("Prospect") as a prospect of Pyramid Brokerage Company of Buffalo, Inc. ("Pyramid"). As you know, our Prospect has made an offer to buy your Property.

In the event a deal is consummated between our Prospects, any of their principals, affiliates, subsidiaries, partnerships, or related companies, and you/ Genesee County Economic Development Center ("Seller"), or any of your partnerships, or related companies, then you agree to pay Pyramid a commission of ten percent (10%) of the sale price at the closing and from the closing proceeds.

Assuming this is acceptable, please acknowledge by executing in the space provided below and returning one copy.

Sincerely,

Accepted:

PYRAMID BROKERAGE COMPANY


Richard J. Schechter
Associate Real Estate Broker

Seller

Date:

GCEDC
Audit & Finance Committee Meeting Report

Consulting assistance on local labor policy reporting and conformity for projects

Loewke Brill Consulting Group, Inc. has been the GCEDC's consultant who assists with the monitoring and reporting of company's compliance with the local labor policy. The Board has determined that companies need to provide the GCEDC with a deposit that will cover the costs of these services. Any amount not utilized will be returned to the company.

The following fee is based on the company's project description and timeline as provided in the application for incentives.

Project: Hecate (Cider Solar)

Fund Commitment: \$19,980.

Committee Action Request: Recommend to the full Board approval of the contract with Loewke Brill contingent upon receipt of the deposit from the project.

GCEDC

Jim Krencik, Marketing & Communications Director

Board Meeting Report

December 1, 2022

E3communications GCEDC Public Relations and Social Media Services Contract

Discussion: e3communications, a professional media and public relations firm/consultant, has submitted a proposal for 2023 services related to public relations and social media marketing for the Genesee County Economic Development Center (GCEDC).

In 2022, e3communications supported GCEDC staff with GCEDC planning, sales and marketing, and government/stakeholder relations; including support of the GLOW With Your Hands, Genesee CARES, and events/groundbreakings for Ellicott Station, New York Bus Sales, Brickhouse Commons, and related activities. e3communications also maintains an expanded social media presence to audiences in project development and the greater public.

Fund Commitment: \$24,000 fund commitment. Funding is available and budgeted in the 2023 GCEDC Marketing - Operations budget for the full contract.

Board Action Request: A renewal of services for the Jan. 1, 2023 to Dec. 31, 2023 period at \$24,000 per year.



November 18, 2022

Mr. Steve Hyde
President and CEO
Genesee County Economic Development Center
99 MedTech Drive, Suite 106
Batavia, NY 14020

RE: 2023 Agreement for Public Relations, Social Media and Video Services

Dear Steve:

e3communications greatly appreciates the opportunity to continue our work on behalf of the Genesee County Economic Development Center (GCEDC) in 2023.

Please find below the proposed scope of services:

- Provide strategic public relations counsel regarding organizational messaging as issues develop; this would include participating in planning meetings and various other communications with staff e.g. conference calls, emails, etc.
- The writing and review of various materials, including press releases, statements, media alerts, letters, opinion pieces and other materials as determined necessary.
- Act as a liaison with media outlets in following up on the distribution of press releases and other materials; the facilitation of interview requests by reporters as well as editorial board meetings, pitching news editors for stories about organizational initiatives.
- Assist in the coordination and execution of special events such as news conferences, media briefings, etc. This would include developing a program/agenda, writing of scripts, invitations, logistics and other tactics.
- Development and implementation of a robust social media program focusing on Facebook and Twitter. This would include the writing of a monthly schedule of posts for both mediums.
- Shoot/record and edit video for producing content for social media.
- Monitor and track and distribute relevant news articles and placements and provide monthly report on public relations activities.



All work conducted by e3communications for the Genesee County Economic Development Center in 2023 will be budgeted at \$24,000 (monthly fee of \$2,000). There is no cap on the number of hours rendered on a monthly basis. A description of the services will be provided in each invoice for the work conducted in that month. **All terms are 30 days payment.**

The terms outlined in this agreement shall remain in effect from January 1, 2023 until December 31, 2023 or until modified or terminated by either party upon thirty (30) days written or verbal notice.

e3communications pledges its confidentiality to the Genesee County Economic Development Center for all work e3communications performs on behalf of the Genesee County Economic Development Center.

If you are in agreement with the terms and conditions outlined above please indicate by signing below. Thank you again for the opportunity to work on behalf of the Genesee County Economic Development Center.

Sincerely,

e3communications

Earl V. Wells III
President

For the Genesee County Economic Development Center

Steve Hyde
President and CEO

memo



To: Jim Krencik
From: e3communications
Date: November 18, 2022
Re: 2022 Public Relations and Social Media Report

As of November 18, 2022, e3communications has provided approximately 650 hours of public relations, public affairs and social media services on behalf of the Genesee County Economic Development Center. At a blended rate of \$150 per hour, this calculates to approximately \$97,500 worth of services to the GCEDC thus far in 2022 by e3communications.

Below is a recap and highlight of our activities to date:

e3communications has issued approximately 42 news releases and news alerts to media outlets in the GLOW region and the Buffalo and Rochester media markets.

Among some of the highlights from an earned media perspective included:

- The 4th annual GLOW With Your Hands event in September at the Genesee County Fairgrounds, including various news releases to promote and publicize the event. The day of event coverage included media outlets from Buffalo and Rochester and a live interview on a Buffalo television station for Chris Suozzi.
- e3communications provided media outreach on behalf of the GLOW YMCA and Rochester Regional Health's United Memorial Medical Center for a groundbreaking event for the \$33.5 million Healthy Living Campus in downtown Batavia.
- In April, e3communications provided assistance with GE Renewable Energy for the company's ribbon-cutting ceremony to unveil a new research and development facility in the town of Bergen that will conduct research on how to 3D print the concrete base of towers used in wind turbines.

551 Franklin Street
Buffalo, New York 14202
716.554.8182 phone
716.818.0900 fax
e3communications.com

e3communications
Public Relations Public Affairs

memo



- In June, New York Bus Sales broke ground on a \$4.5 million multi-use 20,000 sq. ft. facility today in the town of Batavia. This event resulted in media coverage across the WNY and Finger Lakes region, including a live interview with a Buffalo television station.
- Also in June, e3communications coordinated a press event for the groundbreaking of J&R Fancher Property Holdings LLC 14,000 sq. ft. mixed use development in the town of Pembroke at Buffalo East Technology Park.

As it pertains to our management of content and graphics and design and analytics for GCEDC and STAMP social media platforms, we have tracked the following results:

- STAMP Facebook: 517 Followers, 20% growth
- STAMP Twitter: 332 Followers, 13% growth
- GCEDC Facebook: 836 Followers, 33% growth
- GCEDC Twitter: 1,283 Followers, 2% growth
- GCEDC LinkedIn: 775 Followers, 104% growth

Our end goal is to maximize our reach/engagement on LinkedIn, as it is the top-rated social media platform for lead generation, making it the premier source for B2B marketing.

Twitter and Facebook are utilized to create awareness among regional stakeholders. Other economic partners (GRE, IBN, NYSEDC) do a great job of collaborating with GCEDC/STAMP on their respective social media channels.

Among are some of the highlighted content that created the greatest reach among followers on these channels include:

- Periodic updates related to Plug Power and STAMP
- Liberty Pumps Expansion
- GE Renewables Open House
- Rochester Regional Health Project Updates
- Edward's Vacuum Announcement
- Ellicott Station Groundbreaking
- J&R Fancher Groundbreaking
- Genesee CARES Awareness Campaign
- WNY Tech Academy Greenhouse Ribbon Cutting

351 Franklin Street
Buffalo, New York 14202
716.854.8182 phone
716.816.0900 fax
e3communications.com

memo



- Coach Swazz Corner, Workforce Development Program Highlights

Finally, from a public affairs perspective, we continue to provide assistance with regards to regulatory, labor and other issues impacting development at STAMP.

Please contact us with any questions regarding our public relations, social media and public affairs services on behalf of the GCEDC and STAMP.

503 Franklin Street
Buffalo, New York 14202
716.854.8182 phone
716.816.0900 fax
e3communications.com

e3communications
Public Relations Public Affairs

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GCEDC

Jim Krencik, Marketing and Communications Director

Board Meeting Report

December 1, 2022

Greater Rochester Enterprise (GRE) – GCEDC Support

Greater Rochester Enterprise is our non-profit regional economic development organization supported by a team of private and public-sector leaders in the Finger Lakes region to grow the economy in Genesee County and our eastern neighbors.

This funding request supports GRE staff partnerships with the GCEDC's business development, sales and marketing efforts, site development, and talent attraction efforts. The GCEDC also receives an active role on Greater Rochester Enterprise's board of directors.

GRE staff directly enhance the GCEDC's active sales funnel at STAMP and our shovel-ready sites. Notably, GRE has provided critical regional connections that further company due diligence, including work that lead to Edwards Vacuum's \$319 million, 600-job project announced in November.

Please see the attached memo from GRE President & CEO Matt Hurlbutt for a full report of his organization's support to the GCEDC.

Board Request: An investment renewal of \$52,000 to Greater Rochester Enterprise for the 2023 calendar year. This expenditure is covered by available funds in the 2023 GCEDC budget.



Request for Support 2023

Greater Rochester Enterprise (GRE) is a not-for-profit economic development organization dedicated to improving economic performance in the region. GRE works to position the Greater Rochester/Finger Lakes, NY region as one of the most innovative regions in the world, attracting new private investment, new jobs and economic growth.

For many years, GRE has marketed the region, attended industry trades shows, Site Selector Guild, Industrial Asset Management Council, Semiconductor Industry Association, and visited site selectors at their offices to promote the region for investment, especially highlighting the unique attributes of STAMP for large technology based investments.

GRE acts as a business attraction lead generator for GCEDC, connecting business executives with the GCEDC team to provide assets for development – examples include Alpina, Muller Quaker, LaFermiere at the Agribusiness Park and Plug Power, Edwards Vacuum and several other business attraction prospects at STAMP.

More importantly, GRE has assisted each of those companies and other local companies with connectivity in the region. GRE assisted with important steps to secure Foreign Trade Zone designation to support the expansion of Liberty Pumps and is currently working with LaFermiere, Plug Power and Edwards Vacuum as they move forward with their building, innovation and hiring efforts. This is done with direct consultation with the company and GCEDC leadership to provide personal, unified support to company leadership.

GRE works with GCEDC to secure funding for site development, support talent development, assist in the creation and implementation of the FAST NY shovel ready site program, Green Chips Act and other programs that will be beneficial to Genesee County and economic development throughout Upstate New York.

GRE reports a significant increase in project wins, new projects secured, and total projects managed as a result of enhanced business development strategies, targeted marketing, focused and sustained outreach and relationship building with industry experts, business leaders and site selectors.

In recent years, GRE has submitted Genesee County sites for more than 39 individual business attraction opportunities, many that would mean several billion dollars of capital investment and thousands of new jobs.

GCEDC financial support of GRE is critical to increased project opportunities and our unified approach to the execution of the business attraction sales process and execution of business attraction deals as noted above. The GRE team is on call, on site and delivers daily for Genesee County throughout the business attraction process with business specific research, connectivity to local experts, unique company requests and timely execution for each individual prospect. This process is personnel intensive and unique to our region.

GRE respectfully requests support of \$52,000 for 2023 as we increase unique research tools in support of business attraction and expansion opportunities that will directly impact business growth and job opportunities throughout Genesee County.

Thank you for your partnership and support. Please feel free to call me at 585.749.1305 with any questions.

Matt Hurlbutt
President & CEO

RochesterBiz.com 585.530.6200 | 100 Chestnut Street, Suite 1910, Rochester, NY 14604

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GCEDC

Jim Krencik, Marketing and Communications Director

Board Meeting Report

December 1, 2022

Invest Buffalo Niagara (InBN) – GCEDC Support

Invest Buffalo Niagara (InBN) is our non-profit regional economic development organization supported by a team of private and public-sector leaders in the Western New York region to grow the economy in Genesee County and our western neighbors.

This funding request supports InBN staff partnerships with the GCEDC's business development, sales and marketing efforts, site development, and talent attraction efforts. The GCEDC also receives an active role on Invest Buffalo Niagara's board of directors.

InBN staff directly enhance the GCEDC's active sales funnel at STAMP and our shovel-ready sites. Notably, InBN has provided critical data analysis that further company due diligence, including work that lead to Edwards Vacuum's \$319 million, 600-job project announced in November.

Please see the attached memo from Invest Buffalo Niagara Chief Operating Officer Jenna Kavanaugh for a full report of her organization's support to the GCEDC.

Board Request: An investment renewal of \$25,000 to Invest Buffalo Niagara for the 2023 calendar year. This expenditure is covered by available funds in the 2023 GCEDC budget.

November 17, 2022

Mr. Steven G. Hyde
President & CEO
Genesee County EDC
99 MedTech Drive,
Batavia, NY

RE: Financial Support for Invest Buffalo Niagara in the 2023 GCEDC Budget

Dear Mr. Hyde,

I am writing to respectfully request that support from Genesee County EDC of \$25,000 for Invest Buffalo Niagara in the 2023 GCEDC Budget to further our efforts and help enable programs that will positively impact and encourage economic growth in Genesee County.

An investment in Invest Buffalo Niagara is an investment in our community. We believe that a proactive, regional effort to attract and retain business through intentional interaction with the site selector community, real estate developers, and expanding businesses is an essential undertaking to grow the economic pie in Western New York and bring additional wealth and work opportunities for the benefit of all residents.

Invest Buffalo Niagara, the region's private, non-profit economic development organization, has a 20+ year track record of success in attracting business to Western New York. Since 1999, Invest Buffalo Niagara has assisted 423 businesses to expand or start up in the region, attracting or retaining 46,491 jobs and \$6.6 billion in capital investment.

The Genesee County Center for Economic Development has been visionary with its detailed efforts in site preparation and infrastructure improvements. GCEDC has made tremendous progress on bold initiatives like Western New York STAMP, Buffalo East Technology Park, the Genesee Valley Agri-Business Park, and the Upstate Med & Tech Park & Commercialization Center. This is the type of available product that gets the attention of site selection professionals and corporate real estate executives. It a tremendous addition to the tool kit that our business development staff uses to promote our region, and well positions Genesee County to take advantage of opportunities across a wide array of our targeted industry clusters.

The strong working relationship between Invest Buffalo Niagara and GCEDC has enabled GCEDC staff to take full advantage of Invest Buffalo Niagara's research and marketing services. Our combined work, with the support of other critical key partners, created a path for Genesee County to become one of the nation's top ten micropolitans and to seriously compete on a national scale for prime-time projects.

Invest Buffalo Niagara functions as WNY's lead generation and marketing arm for outreach to prospective businesses and acts as a concierge for businesses that express an interest in expansion in our region, ranging from research to ribbon cutting. Beyond our core mission, Invest Buffalo Niagara

Come grow your business with us.

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does so much more to support economic development in our community, and specifically in Genesee County.

For example:

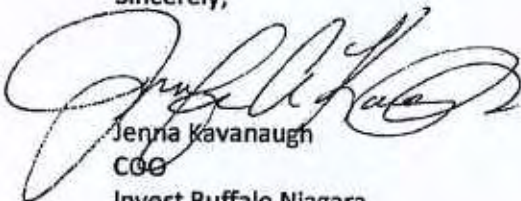
- Invest Buffalo Niagara supports several regionally significant business attraction opportunities investigating Genesee County. In the last two years Invest Buffalo Niagara Business Development and Research staff have supported GCEDC execute over one dozen regional visits by companies across the globe in target industry sectors. Major project wins born out of our joint efforts include Edwards Vacuum, La Fermiere, and Plug Power, with several more transformational projects actively considering Genesee County.
- To support Invest Buffalo Niagara and GCEDC's business attraction efforts, InBN's Research team consistently leads regional efforts related to fulfillment of Requests for Information (RFI) and other critical data inquiries from economic development opportunities and site selection consultants. The data managed by our research team helped inform recovery efforts through the global pandemic and bolsters InBN and GCEDC marketing efforts such as various guides and brochures, presentations, websites, and social media. Direct research support to GCEDC since the outset of the pandemic totals 125 hours.
- Invest Buffalo Niagara proudly collaborates with the Genesee County Economic Development Council on marketing initiatives and tactics. InBN often assists GCEDC with the production and design of many of its marketing materials. Recent marketing activities include the design of GCEDC's annual report, development of print advertisements, new product folders, and promotional materials for WNY STAMP, including a refreshed brochure and postcard. GCEDC also utilized the BuffaloNiagara.org Commercial Listing System with backend authoring access.
- This past year, GCEDC, Greater Rochester Enterprise and Invest Buffalo Niagara collaborated on a social media campaign to promote the Buf Roc Tech Corridor. In addition, GCEDC, GRE, and InBN, frequently engage in mega region social media marketing activities.
- Invest Buffalo Niagara is engaged in national public relations campaign to encourage investment and job creation in Buffalo Niagara through national news stories – positioning the region as a hub of innovation and transformation. Launching in September 2022, we will build upon the current success of the program, which has resulted in articles in *Fast Company*, *The New York Times* and more. We have successfully been positioning Buffalo Niagara as a climate refuge and have been featured in more than nine outlets. We will host fam tours and continue to pitch and promote the innovations happening in our region and showcase our transformative businesses, economic landscape, and regional amenities.
- Invest Buffalo Niagara will be conducting outreach and business recruitment to the site selection community as well as business owners and c-level executives within key target industries. Through outbound trade missions targeting six to eight prospect meetings per region, we will

connect with companies that express interest in expanding their operations in the northeast region. We will attend two Area Development Consultants Forum and one Consultants Connect event, which provide direct access to site selectors, participate in the Site Selectors Guild Fall Forum and conduct two outbound visits (New York City and Chicago) to pitch site selectors on our region. In addition, Invest Buffalo Niagara will continue to deploy targeted Canadian outreach in key industry sectors to generate a strong pipeline of companies interested in establishing their footprint in Western New York. These target industry outreach programs are complemented by a national digital marketing strategy highlighting the region's strengths and innovations, particularly in technology and manufacturing.

- Invest Buffalo Niagara spearheaded the efforts to create a regional WNY Industrial Real Estate Development Strategy and is in the process of implementing 58 strategic recommendations in the areas of business recruitment readiness, site readiness, incentives, workforce development, and marketing to improve industrial site availability and adopt best practices throughout the economic development delivery system as identified through the strategy document released in February 2021.
- Finally, Invest Buffalo Niagara is currently conducting a Labor Market Assessment with report findings and strategic recommendations being released in December 2022. Key components of the study include an understanding of Buffalo Niagara's workforce and target industries, an understanding of livable wage occupations in our region and where transferability of skills from low-wage careers exist, as well as the skill gaps found in our occupations with low unemployment and where the gap in skill attainment is occurring/can be overcome. The study is primarily funded by an EDA Grant Build Back Better Grant and National Grid. It is anticipated that there will be several strategic initiatives proposed which may require Invest Buffalo Niagara to facilitate the support of a variety of regional partners to implement.

Invest Buffalo Niagara works collaboratively on business attraction – and many other important initiatives – with a number of partner organizations in the public and private sectors. The most successful business attraction organizations around the country are funded by the private sector and local governments in tandem. We sincerely appreciate the support and dedication of Genesee County in working to continue the economic resurgence of our community for the benefit of all its residents.

Sincerely,



Jenna Kavanaugh
COO

Invest Buffalo Niagara
jkavanaugh@buffaloniagara.org

Come grow your business with us.

INVEST BUFFALO
NIAGARA

257 W Genesee St., Suite 600
Buffalo, New York 14202

P: 1.800.916.9073 F: 716.842.1724
BUFFALONIAGARA.ORG

CC:

Thomas A. Kucharski, President & CEO,
Invest Buffalo Niagara

Douglas W. Dimitroff
Invest Buffalo Niagara, Board Chair
Phillips Lytle LLP, Partner

Come grow your business with us.

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ENGAGEMENT LETTER / CONSULTING AGREEMENT

This Agreement is made this December 1, 2022, for the period January 1, 2023 through December 31, 2023, between the **Genesee County Economic Development Center** (the "Company"), having its principal place of business at 99 MedTech Drive, Batavia, NY 14020 and **Sheila Eigenbrod**, (the "Consultant"), having a principal place of business at **ADD ADDRESS** Warsaw, NY **ZIP Code** (collectively, the "Parties").

COMPENSATION AND SERVICES RENDERED:

The Consultant hereby agrees to perform the following services, as required:

1. Perform consulting services to assist in the development and implementation of workforce development programs and training initiatives relative to the goals of the Company and its' affiliates.
2. Consult with the Company staff relative to the application, development, and deployment of its' workforce programs.
3. Consult with educational institutions who may serve as partners in the development, implementation, and delivery of training programs. Specifically, interface with Genesee Community College and its' BEST Center, other institutions of higher learning, the Genesee Valley Educational Partnership/Business Education Alliance, and local secondary schools as appropriate and GLOW Works, Inc.
4. Provide consulting services as requested by the Company.

For the services provided to the Company, the Company, agrees to pay the Consultant based upon presentation of a monthly invoice based on the following fee schedule and conditions:

Fee Schedule:

1. A maximum of Three Hundred and Fifty Dollars (\$350.00) per day. Partial days will be billed at an hourly rate of Fifty Dollars (\$50.00) per hour.
2. Total remuneration is not to exceed Twenty-Nine Thousand Eight Hundred Dollars (\$29,800.00), for the period January 1, 2023, through December 31, 2023.

The Consultant understands and agrees that the Company may provide a 1099 to the Consultant which shall include all compensation as well as expenses paid by company, and it will be the responsibility of the Consultant to maintain adequate records to substantiate all business related expenses for tax purposes.

TERM

This Agreement shall remain in effect through **December 31, 2023** or until terminated by providing a thirty (30) day written notice of termination with the date of receipt by the recipient party indicating the initiation of the notice period, by either party to this Agreement. This Agreement contains the entire understanding of the parties and may not be amended without the specific written consent of both parties.

If the Parties have failed to renew, modify, or terminate this Agreement, for any reason, prior to the Termination Date, then this Agreement shall continue in force until such time as it is terminated in accordance with its provisions.

WARRANTIES BY THE CONSULTANT

The Consultant represents and warrants to Company that Consultant will provide services to Company in a professional, competent, and timely manner; that the Consultant has the power to enter into and perform this Agreement, and that the Consultant's performance of this Agreement shall not infringe or violate any federal, state, or municipal laws. The Consultant shall make no promise or warranty concerning Company's business activity, service, or product outside the scope of their responsibilities and the Consultant acknowledges that it has no authority to bind Company to any such promise or warranty made by the Consultant.

INDEPENDENT CONTRACTOR / CONFLICTS OF INTEREST

The Consultant acknowledges that the services rendered under this Agreement shall be solely as an independent contractor. The Consultant further acknowledges that the Consultant is not to be considered an employee of Company, is not entitled to any employment rights or benefits, and that this undertaking is not a joint venture.

The Consultant understands that Company shall not provide employment related insurance, including but not limited to worker's compensation insurance, and agrees to provide adequate insurance coverage for his own activities.

NON-DISCLOSURE OF CONFIDENTIAL INFORMATION AND COVENANT NOT TO COMPETE

The Consultant acknowledges that in and as a result of its association with Company, Consultant will be making use of and acquiring confidential information of a special and unique nature and value relating to such matters as

1. Company's patents, copyrights, proprietary information, trade secrets, systems, procedures, manuals, confidential reports, customer lists and price lists (which are deemed for all purposes confidential and proprietary), as well as the nature and type of products and services rendered by Company; and
2. The equipment, business practices and methods used and preferred by Company's customers, and the fees paid by them.

As a material inducement to the Company to enter into this Agreement and to pay to the Consultant the compensation stated in Paragraph 1, Consultant covenants and agrees that the Consultant shall not, at any time during or following the term of this Agreement for a period of two (2) years:

1. Directly divulge or disclose for any purpose whatsoever any confidential information that has been obtained by, or disclosed to, it as a result of its association with Company **other than that information specifically required as a part of this consulting engagement to individuals only and expressly with a need to know.**

Or

2. Make use of any such confidential information to compete, either directly or indirectly, with Company.

The Parties further agree that the Consultant shall not be requested or required to, and shall not, divulge or disclose any information available to the Consultant in violation of any valid and enforceable confidentiality agreement between the Consultant and any other Party.

OWNERSHIP OF WORK PRODUCT

The Consultant agrees that the Consultant's work product produced in the performance of this Agreement shall remain the property of Company, and that the Consultant will not sell, transfer, publish, disclose or otherwise make the work product available to third parties without Company's prior written consent.

ARBITRATION

Any controversies or claims relating to any aspect of the Agreement, or to its breach, or the relationship created between the Parties shall be settled by arbitration under the rules of the American Arbitration Association. The Parties agree to abide by the arbitrator's decision and also agree that a judgment may be entered upon the award in any court having jurisdiction.

The Parties agree that neither Party shall act to terminate or modify the nature of the parties' course of performance under this Agreement during the pendency of an arbitration, it being the parties' intent to preserve the status quo so as not to jeopardize the rights of either party for the period from the commencement of an arbitration to the entry of the arbitration award.

NOTICES

All notices between the Parties shall be in writing and effective when sent by certified mail to the addresses above stated, unless such addresses are changed by written notification to the other Party.

WAIVER

No failure of either party to exercise any power hereunder or to insist upon strict compliance by the other party with any obligation or provisions hereunder, and no custom or practice of the parties at variance with the terms hereunder shall constitute a waiver of the right to demand exact compliance with the terms hereof.

INDEMNIFICATION

Company will indemnify and hold harmless the Consultant from and against all liabilities and expenses, including reasonable attorneys' fees ("Liabilities"), arising out of any claim by anyone not a party to this Agreement, including third parties, considering (i) Company's material breach or default, (ii) violation of law or regulation applicable to Company, and (iii) representations, guarantees or warranties provided by Company, excluding Liabilities arising out of, or in connection with any gross negligence or willful misconduct of the Consultant.

The Consultant shall indemnify and hold Company and its affiliates and their agents, employees, officers, managers, successors and assigns from and against all Liabilities arising out of, or in connection with, any (i) Consultant's material breach or default, or (ii) violation of law or regulation applicable to the Consultant, excluding Liabilities arising out of, or in connection with, any negligence or willful misconduct of Company.

This indemnity shall survive the termination of this Agreement. The obligation of either party to indemnify the other shall not apply to the extent the loss is due to either party's: a) failure to adhere to the terms of this Agreement; b) failure to comply with any applicable government requirements; or c) negligence or willful misconduct of a party, its directors, officers, agents or employees.

ABILITY TO ENTER AGREEMENT

The parties executing this Agreement hereby covenant and warrant that each respective company has full right and authority to enter into this Agreement, and that each of the persons signing on behalf of the corporation are duly authorized to do so.

RELATIONSHIP OF PARTIES

This Agreement is not intended to constitute or create a joint venture, pooling arrangement, partnership, agency or business organization of any kind. Sheila Eigenbrod and Company shall be independent contractors for all purposes and neither party shall act as or hold itself out as agent for the other or create or attempt any obligations or liabilities on behalf of the other party.

SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby.

ASSIGNMENT

Neither party may assign this Agreement or its obligations hereunder to any entity, except a corporate subsidiary, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

Neither party shall be liable to the other for its failure to perform any of its obligations hereunder during any period in which such performance is delayed by acts of God, war, Internet or electrical power disruptions, terrorism, civil disorder or disturbance, riot, labor disputes, acts or omissions of the other party or acts or omissions of any third party.

GOVERNING LAW

This Agreement will be governed by the laws of the state of New York, excluding application of its conflict of laws provision.

ENTIRE AGREEMENT

This Agreement contains the Parties' entire understanding and may not be modified except in written form signed by both.

IN WITNESS WHEREOF, Genesee County Economic Development Center and Sheila Eigenbrod have duly executed this Agreement as of the day and year first written above.

Dated:

Consultant: Sheila Eigenbrod

By: _____
Sheila Eigenbrod
Consultant

Dated:

Company: Genesee County Economic Development Center

By: _____
Pete Zeliff
President

NYISO deposit and letter to submit an interconnection request

Discussion: In 2017 the GCEDC applied to the NYISO with an interconnection request to draw down 500 mW from the 345 kV lines to the north of the STAMP site. Upon completion of the Systems Impact Study (SIS) and the facility study, the NYISO determined that the GCEDC could draw down 300 mW without having to pay for any improvement to the overall electrical grid. Upon conversations with NYPA, if the GCEDC would like to draw down 600 mW we need to submit another interconnection request to get in the interconnection queue. This is a four step process:

Step 1: The GCEDC submits an interconnection request. The project description is to increase the load at the STAMP location. NYPA believes that there is a deposit required of \$5,000.

Step 2: NYISO holds a meeting with all affected parties to confirm the request as well as to discuss the scope.

Step 3: System Reliability Impact Study. NYISO performs this study and provides recommendations for any needed upgrade.

Step 4: Facility Study: The transmission Owner develops detailed scope and cost estimate for the scope. After this point, the project can be considered firm if you decide to move forward.

Potential future costs: The total cost of the SRIS may be between \$30,000 to \$100,000, depending on the scope. They require a \$150,000 deposit but you pay the actual study cost.

Fund Commitment: \$10,000. The Board previously approved up to \$5,000.

Committee Action Request: Recommend approval of increasing the deposit to \$10,000 and submitting an interconnection request with the required deposit.

Clark Patterson Lee Proposal for STAMP onsite 150,000 gpd treatment design

Discussion: The GCEDC is currently looking at sizing the WWTF appropriately for the current tenants locating at STAMP. The GCEDC had previously work with the DEC for the better part of a year and half to get the 1 mgd plant approved. We are still awaiting final DEC comments on that design. Now that we have tenant commitments that would require the construction of the WWTF we need to take a look at what the options and flows for construction need to be.

Fund Commitment: Not to exceed \$225,000.

Committee Action request: Recommend approval of the proposal from Clark Patterson Lee for the services needed to complete the design and engineering through final DEC approval of the WWTF that would be constructed at this time.



November 16, 2022

Mark Masse, Senior Vice President of Operations
Genesee County Economic Development Center
99 Med Tech Drive, Suite 106
Batavia, NY 14020

**RE: STAMP ONSITE WASTEWATER TREATMENT FACILITY (WWTF)
150,000 GPD DESIGN
PROPOSAL FOR ENGINEERING SERVICES**

Dear Mark:

CPL is pleased to submit our revised proposal for engineering services related to the design and permitting of a 150,000 GPD Onsite Wastewater Treatment Facility (WWTF) solution for the STAMP site, located in the Town of Alabama.

Our proposal is based on the following:

- Our intimate knowledge of the STAMP project and our significant involvement in its development for over sixteen years.
- Our involvement in the development of the onsite wastewater recycling and onsite sanitary sewer treatment facility concept. This approach significantly reduces the infrastructure costs and permitting challenges associated with providing both water and wastewater service for full buildout of the STAMP campus, especially as tenant water requirements increase.
- Our involvement in the design and permitting of the original 1.0 MGD Onsite Sanitary Sewer WWTF solution. This effort began in 2018 and involved an onsite SBR (Sequential Batch Reactor) sanitary sewer treatment facility that would discharge effluent to a 6.0 MGD Onsite Wastewater Pump Station, which would then discharge to Oak Orchard Creek. The WWTF was designed to be easily expandable at treatment capacity levels of 0.25, 0.50, 0.75 and 1.00 MGD, with a low flow 0.150 MGD treatment option.

A lot has transpired in the world and with the overall STAMP project since 2018, including several items that cause us to reconsider the required phasing and capacities for the STAMP WWTF:

- In the past several months, the sanitary sewer capacity needs of STAMP have become much clearer. The initial tenants selecting STAMP and several other businesses showing strong interest in STAMP have far lower sanitary sewer requirements than was originally anticipated for STAMP.
- The NYS DEC reviews and approvals for original Onsite WWTF, Onsite Pump Station, and Force Main have taken extraordinary time and effort to address. This has spanned several years, multiple changes of involved NYS DEC staff members, and multiple changes to NYS DEC's preferred approaches for SPDES Permitting, the WWTF, and Pump Station.



- For SPDES Permit discharge monitoring purposes, the NYS DEC will not allow businesses to discharge combined sanitary and process water flows to the WWTF. Process water will need to be pretreated by each business and discharged directly to the Onsite Pump Station, downstream of the WWTF. This reduces the potential flows that could be sent to the sanitary WWTF in the future.
- The first phases for the initial tenant projects will likely require a low flow solution to prevent operational challenges at the WWTF. If the sewage flows and the biologic loading on the WWTF are not sufficient, the biologic treatment processes will not work properly (“the bugs will not have enough food to eat and will die”) and the WWTF will struggle to meet the SPDES Permit discharge limits.
- The National Grid electric transmission main reroute and feeder line have impacted the original WWTF site plan and utility layout.
- The SBRs, which provide the biological treatment, within the original 1.0 MGD WWTF design are easily expandable. However, most of the infrastructure upstream and downstream of the SBR’s are designed to accommodate the full build out 1.0 MGD capacity. This includes influent pump station, control building, blower layout, distribution structure, flocculation tank, disc filter building, backwash pump station, UV disinfection building/structure, and sludge handling facilities. This will create significant upfront construction costs that may no longer be beneficial.
- There have been extreme construction cost increases and volatility due to the pandemic and supply chain issues. This has the potential of adding millions of dollars to the WWTF bids.

Taking everything we now know into consideration, we recommend/propose to design and permit a 150,000 GPD Onsite SBR WWTF base project that will be easily expandable at treatment capacity levels of 150,000, 300,000 and 450,000 GPD. The upstream and downstream infrastructure will be designed to accommodate a full build out capacity of 450,000 GPD. A low flow 25,000 GPD treatment optional will be included.

In additional, for budgetary flexibility, we will also design a 25,000 GPD low flow bidding alternative project that will include temporary and/or lower capacity influent pump station, mechanical bar screen, flow meter, control building, blowers, disc filter, UV disinfection, backwash pump station and sludge handling.

We have attached concept plans for the proposed phased solution. This approach will provide significant bidding flexibility in order to right size the WWTF facility to meet STAMP’s operational needs and budget.

We will obtain NYS DEC review and approvals for this solution. We are hopeful that their review process will be timely given the amount of coordination that has already taken place, the approach is still a similar SBR WWTF, and that we are including low flow treatment options.

The attached “STAMP Onsite Wastewater Treatment Facility (WWTF) 150,000 GPD Engineering Fee Estimate” provides a detailed breakdown of our proposed Scope of Work for this project, including Tasks, Man-Hours, and Fees. A summary of the proposed Tasks and Fees is provided as follows.



Task	Total Fee
CPL Scope	
1. Project Management	\$50,000
2. Preliminary Design	\$90,000
3. Permits & Approvals	\$15,000
4. Final Design	\$45,000
CPL Subtotal	\$200,000
Subconsultant Scope	
5A. Controls Engineering	\$25,000
Subconsultant Subtotal	\$25,000
Total Fees	\$225,000

The Subconsultant Fees provided are budgetary estimates. CPL will invoice GCEDC/GGLDC for the direct costs incurred without mark up. CPL coordination of the Subconsultants' work will be covered in our fees for Project Management.

The tasks performed as part of this proposal will be completed in accordance with similar tasks performed by CPL for previous STAMP Projects and other GCEDC/GGLDC Shovel Ready projects.

We appreciate the opportunity to submit our proposal and welcome the opportunity to assist you with this project. Upon your review, should you have any questions, please contact me at (585)402-7595.

Very truly yours,

CPL

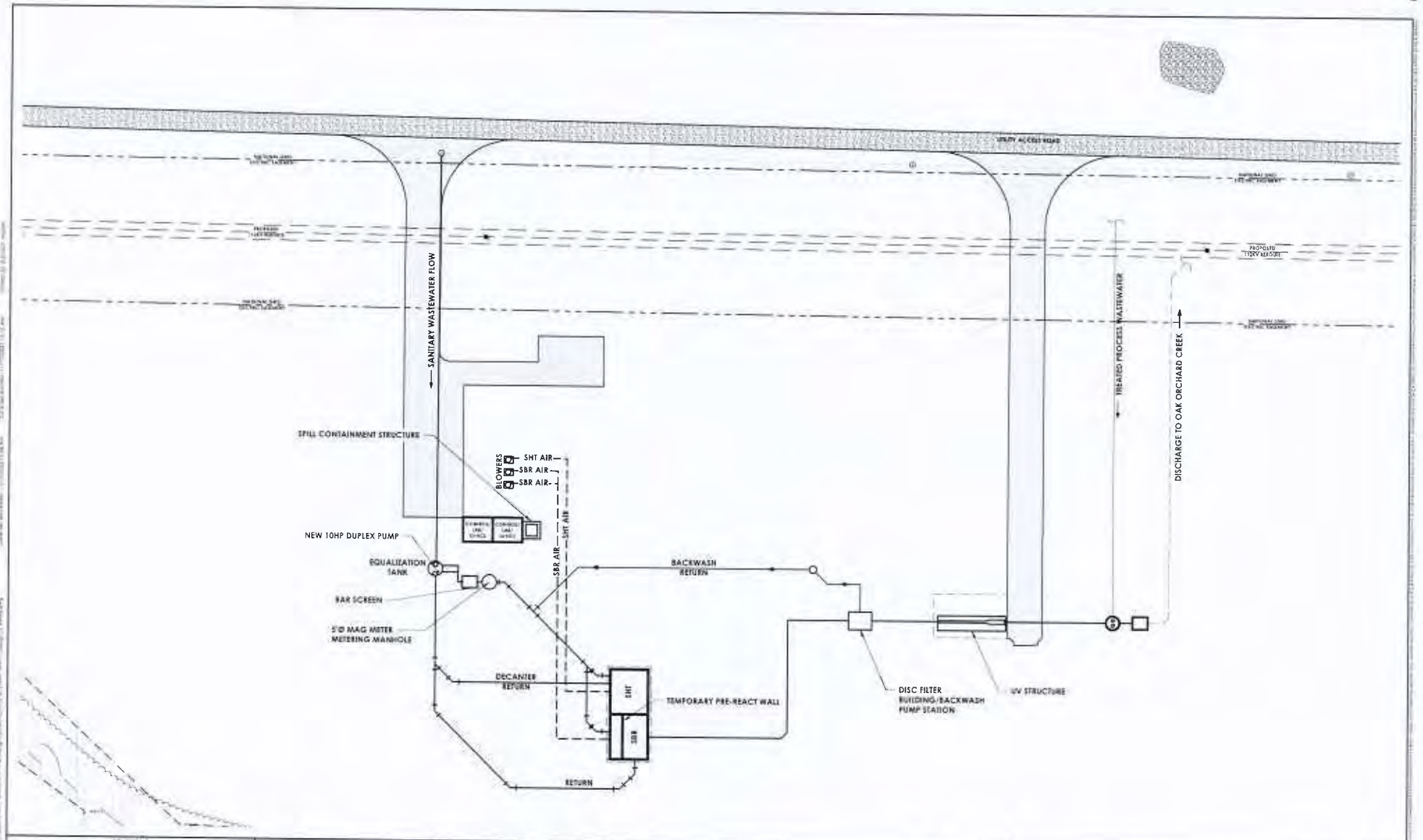
Thomas A. Carpenter, P.E.
 Vice President

Enclosures

Authorization By:

Signature: _____
 GCEDC/GGLDC

Date: _____



REVISION			
NO.	DATE	BY	DESCRIPTION



3805 PARK DRIVE, SUITE 100
WICHITA, NEW YORK 14890
TEL: (845) 274-9800
FAX: (845) 270-2884
[CPLteam.com](http://www.cplteam.com)

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**GENESSEE COUNTY ECONOMIC
DEVELOPMENT CENTER
(AGENCY SET, NOT FOR CONSTRUCTION)**

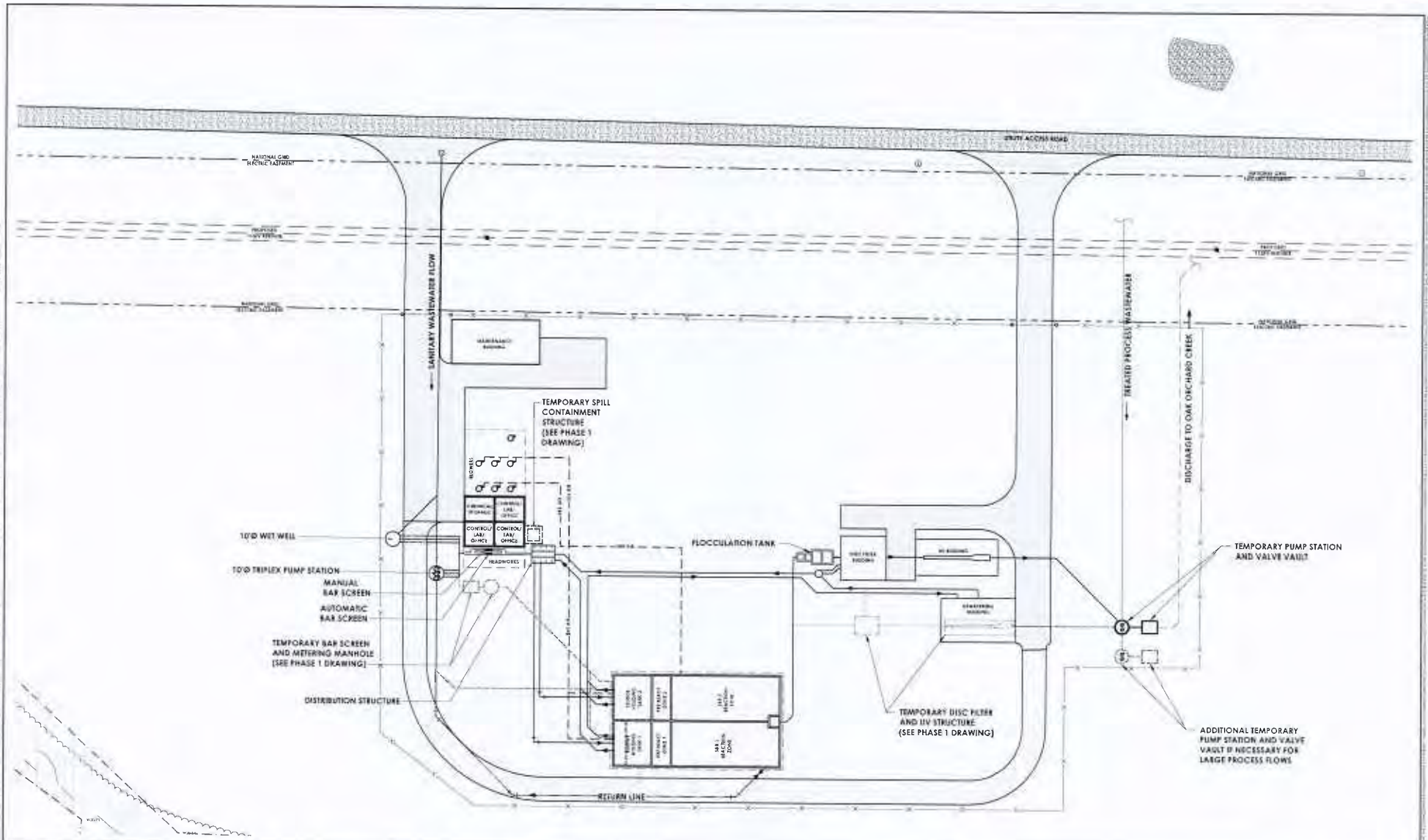
TOWNSHIP OF ALABAMA GENESSEE COUNTY NEW YORK STATE

DATE: 04/27/2025
DRAWN: MCJ
DESIGNED: NAB
CHECKED: ABB
SCALE: 1" = 30'

STAMP ONSITE WASTEWATER TREATMENT FACILITY
SITE PLAN
PHASE 1A SBR ALTERNATIVE

PROJECT NUMBER: 14822101
DRAWING NUMBER:

1482



NO.	DATE	BY	REVISION	DESCRIPTION

20521 POND DRIVE, SUITE 400
MICHIGAN, NEW YORK 14843
TEL: 800.273.1932
FAX: 716.853.0000
www.ch2m.com

GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER
(AGENCY SET, NOT FOR CONSTRUCTION)

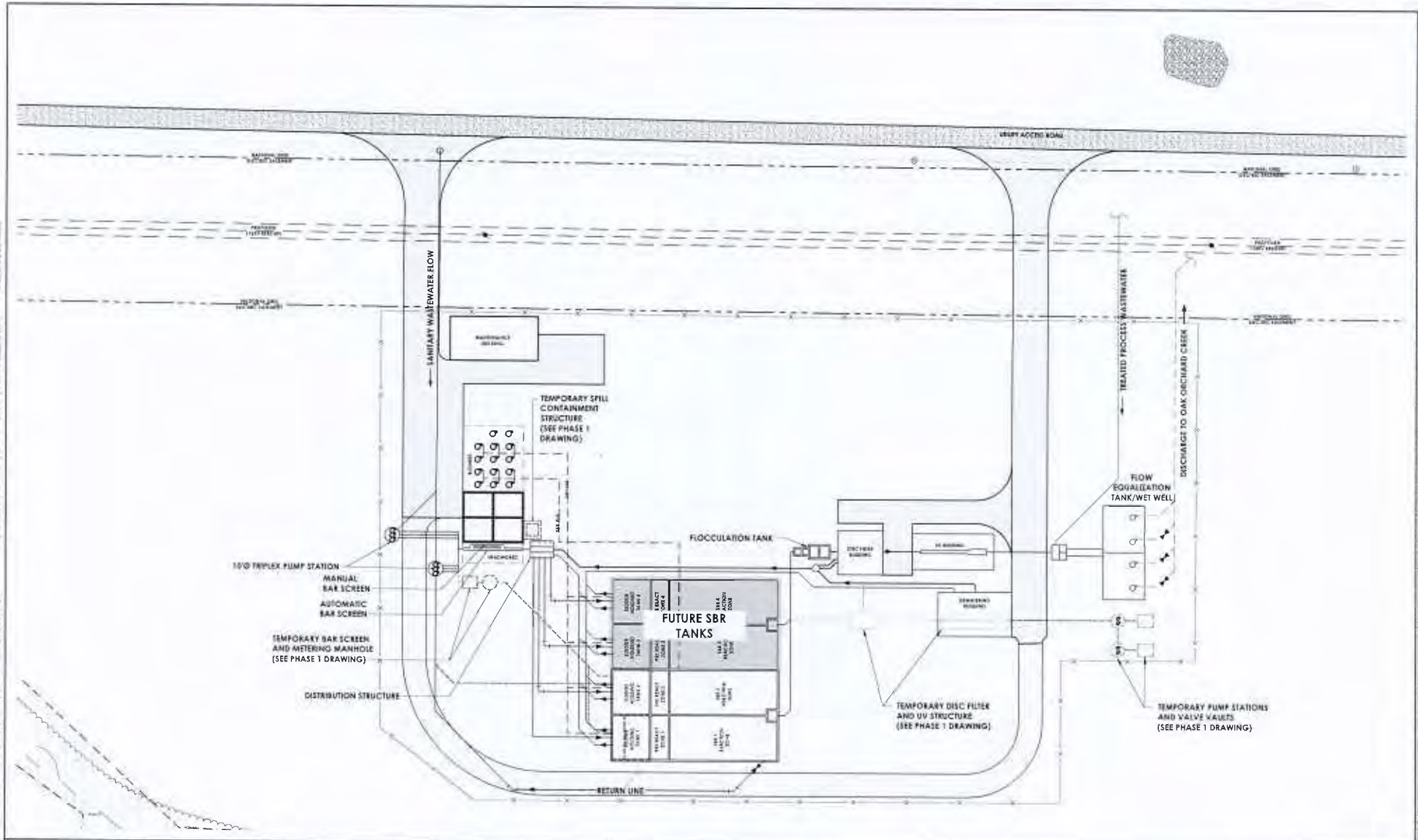
STATE OF ALABAMA GENESEE COUNTY NEW YORK STATE

DATE: 04/07/2009
DRAWN: NAB
DESIGNED: NAB
CHECKED: AWK
SCALE: 1" = 30'

STAMP ONSITE WASTEWATER TREATMENT FACILITY
SITE PLAN
PHASE 1 SBR ALTERNATIVE

PROJECT NUMBER: 1482100
DRAWING NUMBER: 1482100-01

6.2



NO.	DATE	BY	DESCRIPTION



INC. 1101 STATE ST. SUITE 301
 ROCHESTER, NEW YORK, 14620
 TEL: (585) 274-9400
 FAX: (585) 332-0804
CPLteam.com
AN ISO 9001:2015 CERTIFIED COMPANY

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**GENESSEE COUNTY ECONOMIC
 DEVELOPMENT CENTER
 (AGENCY SET, NOT FOR CONSTRUCTION)**
TOWN OF ALABAMA GENESSEE COUNTY NEW YORK STATE

DATE: 04/27/2020
DRAWN: NAB
DESIGNED: NAB
CHECKED: ARK
SCALE: 1" = 50'

STAMP ONSITE WASTEWATER TREATMENT FACILITY
SITE PLAN
FULL BUILD SBR ALTERNATIVE

PROJECT NUMBER	14822.00
DRAWING NUMBER	

Mark Masse

**STAMP Committee
November 30, 2022**

STAMP Maintenance of common space areas

Discussion: We have been working with Phillips Lytle on the best structure to ensure that the common areas are maintained at the STAMP site. Phillips Lytle has prepared the attached memo outlining our findings and conclusions. We feel that utilizing a formula that allocates the costs based on the developable acreage at the STAMP site is the effective way to do this. The open question would be does the GCEDC want to maintain ownership of the common areas or transfer the land to NY Green as part of the agreement.

Fund Commitment: None.

Board Action Request: Approval on the form and function of the maintenance of the common areas.



Phillips Lytle LLP

Memorandum

To: Genesee County Economic Development Center
("GCEDC")

From: Phillips Lytle LLP

Date: November 18, 2022

Re: De minimis property maintenance at the STAMP site.

Question Presented

What must be accomplished for the designation of an entity to manage the de minimis property maintenance obligations at the STAMP site?

Executive Summary

GCEDC is considering the formation or designation of an entity to manage any and all de minimis property maintenance obligations at the STAMP site. The de minimis property maintenance obligations at the STAMP site involve maintenance of signage, common area roadside berms, and certain STAMP site-wide storm water infrastructure (e.g., retention or detention ponds), along with perimeter landscaping (collectively, the "De Minimis Activities").

Consistent with New York General Obligations Law ("GBL") Section 352-e(1), when a party wishes to offer lots for sale together with participation interests or investments in real estate (including cooperative interests in realty), such transactions involve a public offering or sale of securities and require the filing of an offering statement or prospectus. In situations involving only a de minimis cooperative

interest, the filing of the offering statement or prospectus can be accomplished by the filing of an application pursuant to Cooperative Policy Statement No. 7 ("CPS-7"). A de minimis cooperative interest is defined broadly as "a development that owns or maintains limited property or limited recreational facilities with amenities that require either limited or no maintenance." As the STAMP site requires only the De Minimis Activities and each property owner would be expected to contribute toward the De Minimis Activities, CPS-7 is applicable.

After review of potential alternatives and consultation with the New York Attorney General's office, we have determined that the most appropriate course of action to address the De Minimis Activities is the filing of an application under CPS-7 (the "CPS-7 Filing"), which would include the preparation and recording of a declaration identifying the De Minimis Activities, how they would be addressed and by whom (the "Declaration"). In addition, the Declaration would require each property owner at the STAMP site to pay, on a periodic basis, assessments and/or common charges (collectively, "Common Charges") that would be pooled and used for payment of the De Minimis Activities.

As the GCEDC is the largest property owner and the party most desirous of ensuring the future maintenance and esthetic of the STAMP site, GCEDC would be the party acting as the sponsor and responsible for the CPS-7 Filing. However, the CPS-7 Filing can only be made after the Declaration is agreed to by any additional record property owners (i.e. Plug Power and potentially Kingfisher).

The question remaining is what entity will be designated in the Declaration and CPS-7 Filing to oversee the De Minimis Activities. Customarily, when a CPS-7 Filing is

required in relation to commercial property, a "homeowners association" is utilized. These associations are normally styled as "business park associations" in the commercial context and are normally newly formed not-for-profit corporations, the shareholders of which are each of the property owners. In their capacity as shareholders, the property owners elect a board of directors and officers to run the business park association and oversee the collection of the Common Charges and the De Minimis Activities. Many business park associations delegate this work to third party management companies at a cost that is shared by the property owners. While the use of a business park association is customary, there are certainly drawbacks. Notably, as eventually the GCEDC will not be the controlling shareholder, other of the property owners may make decisions with respect to the De Minimis Activities (such as the contractors hired or the timing and regularity of maintenance) that the GCEDC would not be otherwise comfortable with. In addition, as is often the case, property owners may not be interested in spending time in the capacity as an officer or director of a business park association and the hiring of a third party management company can be costly and cause an increase in the Common Charges to be paid by each property owner.

However the CPS-7 Filing does not require the formation of a business park association. To the contrary, a "homeowners association" under CPS-7 can be any "organization that owns or maintains property for the common benefit of all...lot owners where the...lot owners are required to contribute to the upkeep of the common property." As a result, either the GCEDC or some other entity could be designed in the CPS-7 Filing and Declaration as the party charged with the De Minimis Activities.

Given the long-term nature of the STAMP site and the GCEDC's limited role (if any) after all of the land is sold to the property owners, it may be unduly burdensome for the GCEDC to take on the future responsibility for maintenance. Instead, a separate entity could be selected that regularly oversees property maintenance and conservation. One such organization that was identified and, we understand, has preliminarily agreed to take on the De Minimis Activities at the STAMP site at no additional cost is New York Green, Inc. ("NY Green"). NY Green is a not-for-profit organization that provides services relating to sustainable landscapes that balance economic vitality, natural resource conservation and agriculture.

Given its expertise, it appears NY Green will be able to oversee the De Minimis Activities consistent with the standards expected for a first class facility such as the STAMP site. In addition, NY Green currently has connections in its leadership team with the GCEDC that would ensure a continuing relationship between NY Green and the GCEDC, but would allow the GCEDC to eventually remove itself from management responsibilities at the STAMP site. Finally, the use of NY Green would greatly reduce any risk that the property owners would otherwise take control and/or conduct the De Minimis Activities in a manner unsatisfactory to the GCEDC.

Conclusion

While there are several entities that can be utilized to oversee the De Minimis Activities at the STAMP site, the utilization of NY Green or a similar not-for-profit entity offers the greatest benefits and protections for the future maintenance of the STAMP site and reduces many of the associated risks.

Review of Access License Agreement for Edwards Vacuum and/or affiliates for due diligence work

Discussion: Phillips Lytle has prepared for the GCEDC an Access License Agreement to allow Edwards Vacuum and their agents to enable their due diligence on GCEDC owned property for their proposed manufacturing facility until that work is complete or a Purchase and Sale Agreement is executed. Any contractors would be required to sign indemnity agreements, provide proof of insurance and list the GCEDC as an additional insured on their policy with the applicable coverage limits as set forth by the GCEDC.

Fund Commitment: None.

Committee Action Request: Recommend approval of Access License Agreement.

ACCESS LICENSE AGREEMENT

This Access License Agreement (this "Agreement") is made as of the date of the last party to sign (the "Effective Date") by and between Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, a New York public benefit corporation, having an office at 99 MedTech Drive, Batavia, New York 14020-3141 ("GCEDC") and Edwards Vacuum LLC, a Delaware limited liability company, with an address of 6416 Inducon Dr. W., Sanborn, New York 14132 ("Edwards"). GCEDC and Edwards are collectively referred to herein as, the "Parties".

RECITALS

A. GCEDC is the fee simple owner of certain real property located in the Town of Alabama, County of Genesee and State of New York described on Schedule A attached hereto and as further shown on the map attached hereto as Schedule A (the "STAMP Edwards Parcel").

B. The STAMP Edwards Parcel is part of the larger site owned by GCEDC and known as the Western New York Science and Technology Advanced Manufacturing Park (the "STAMP Site").

C. GCEDC desires to grant to Edwards a license on, over and through the STAMP Edwards Parcel for the purpose of performing due diligence work on the parcel including, but not limited to, performance of a Phase I Environmental Site Assessment and if further evaluation is recommended, Edwards shall be permitted to have a Phase II performed, geotechnical survey and review, and an ALTA survey.

AGREEMENT

Now, therefore, the Parties agree as follows.

1. Grant of Access License. Subject to the terms and conditions of this Agreement, GCEDC hereby declares and establishes that there shall be a non-exclusive license for the benefit of Edwards for access, ingress and egress of pedestrians and vehicles on and over the portions of the STAMP Edwards Site identified on Schedule A for the purpose of conducting due diligence and investigating the site to determine if it is acceptable to Edwards for the potential construction of a manufacturing facility (the "Access License"). This Access License shall remain in full force and effect until (i) written notification from Edwards that it has completed its due diligence; (ii) the expiration of any due diligence period in any purchase agreement subsequently entered into by the parties (a "Purchase and Sale Agreement") or (iii) the acquisition of the STAMP Edwards Parcel, whichever is earlier.

2. Licenses Revocable. This Agreement and the Access License shall be fully revocable by GCEDC at any time until the Purchase and Sale Agreement is executed by the parties and is in effect. Upon the full execution of the Purchase and Sale Agreement and following its effective date, this Agreement may only be terminated as set forth in Section 1 above.

3. Reservation of Fee Simple Interest. The Licenses are created solely for the benefit of Edwards and its affiliates, tenants, occupants, licensees, agents, employees, representatives, contractors, invitees, successors and/or assigns (collectively, the "User Parties"). Subject to the Access License, GCEDC reserves its fee simple interest in the STAMP Edwards Site and all rights appertaining thereto, including without limitation, the right to engage in all acts or uses not prohibited by or inconsistent with this Agreement.

4. Insurance.

(a) At all times throughout the term of this Agreement, Edwards shall maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

(i) Builder's risk insurance covering loss caused by weather, fire, vandalism or theft affecting the due diligence work.

(ii) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which Edwards is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of Edwards.

(iii) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence at the STAMP Edwards Parcel or STAMP Site, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and not less than \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon Edwards by any applicable workmen's compensation law; and a blanket excess liability policy in the amount not less than \$3,000,000, protecting Edwards against any loss or liability or damage for personal injury or property damage.

(b) Except for the Workers' compensation insurance, all insurance required by this Section 4 and any insurance carried by the User Parties relating to the STAMP Edwards Site shall name GCEDC as an additional insured to the extent of Edwards indemnity obligations herein. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by Edwards and authorized to write such insurance in the State of New York. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which Edwards is engaged. All policies evidencing such insurance, shall provide for (i) payment of the losses of Edwards and GCEDC as their respective interest may appear, and (ii) at least thirty (30) days' written notice of the cancellation thereof to Edwards and GCEDC.

(c) All such certificates of insurance of the insurers that such insurance is in force and effect, shall be deposited with GCEDC on or before the commencement of the term of this Agreement. Prior to expiration of the policy evidenced by said certificates, Edwards shall furnish GCEDC evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

(d) GCEDC may, from time to time, request and obtain from Edwards new or renewal insurance certificates following the termination or expiration of the previously delivered insurance certificates.

5. Compliance with Laws. Throughout the term of this Agreement, Edwards, at its own sole cost and expense, shall promptly comply and cause the User Parties to

comply with all present and future laws, ordinances, rules, regulations and requirements of all governmental authorities, which may be applicable to the due diligence on the STAMP Edwards Parcel.

6. Limitation on Recourse. Notwithstanding anything to the contrary provided in this Agreement, it is specifically understood and agreed that there shall be absolutely no personal liability on the part of any of the members, partners, shareholders or owners of the Parties, the User Parties, or any of its or their respective directors, officers, partners, managers, employees or agents (each, a "Party Protected Person"), for the payment of any amounts due or the performance of any other obligation of such Parties or User Parties under this Agreement. In furtherance of the foregoing, the Parties agree that neither shall seek nor obtain, nor be entitled to seek or obtain, any deficiency or other judgment against any Party Protected Person for any action or inaction under or in connection with this Agreement, and each party hereby releases any Party Protected Person from any such claims.

7. Indemnification. The Parties and the User Parties shall keep, save and hold harmless one another, respectively, from any and all claims, damages and liability of third parties resulting from injury or death of persons or physical loss of or damage to property of third parties caused by (i) the use of the STAMP Edwards Parcel Site; or (ii) the negligence or willful misconduct by the Parties or the User Parties.

8. Environmental Condition. GCEDC represents and warrants to Edwards that, to GCEDC's knowledge and without any duty of inquiry or investigation, (a) GCEDC has not received any notice of any violation of any environmental laws or regulations related to the STAMP Edwards Parcel (or any portion thereof) and (b) GCEDC is not aware of the existence of any hazardous materials or other environmental conditions at the STAMP Edwards Parcel (or any portion thereof), except as disclosed in the (i) Phase I Environmental Site Assessment of the Wyder Estate Properties (Parcel No. 10.-1-13) dated March 2013 and prepared by Watts Architecture & Engineering, and (ii) Phase I Environmental Site Assessment for Oakfield Alabama Realty (Parcel No. 10.-1-15.11) dated October 2013 and prepared by Watts Architecture & Engineering. Upon execution of this License, GCEDC shall provide Edwards copies of the aforementioned Assessments.

9. Subsequent Owners Bound; Agreement Runs with Land. The provisions of this Agreement shall run with the land and shall bind and inure to the benefit of and be enforceable by the Parties and any future owners of all or any portion of the land, and their respective successors and assigns.

10. No Dedication to Public. Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the properties subject to this

Agreement to the general public for any public use or purpose whatsoever, it being GCEDC's intention that this Agreement is only for the benefit of Edwards and the User Parties.

11. Amendment, Modification or Termination. This Agreement may be amended, modified or terminated only in a writing mutually agreed to, executed and acknowledged by the Parties.

12. Invalidity. The determination by any court that any provision hereof is unenforceable, invalid or void shall not affect the enforceability or validity of any other provisions hereof.

14. Governing Law. This Agreement shall be construed in accordance with the laws of the State of New York, without regard to any conflict of law provision. Any disputes arising hereunder shall be settled in the state courts sitting in the County of Genesee, State of New York or the federal courts in the Western District of New York, and both Parties consent to the personal jurisdiction of said courts and agree not to challenge or assert any defense to the jurisdiction of said courts.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be executed by their respective duly authorized representatives, with the intention that it be effective as of the Effective Date.

Genesee County Industrial Development
Agency d/b/a Genesee County Economic
Development Center

Date: _____

By: _____

Name: _____

Its: _____

Edwards Vacuum LLC

Date: _____

By: _____

Name: _____

Its: _____

ACKNOWLEDGEMENT

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

On this ____ day of _____ in the year 2022, before me personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed in the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

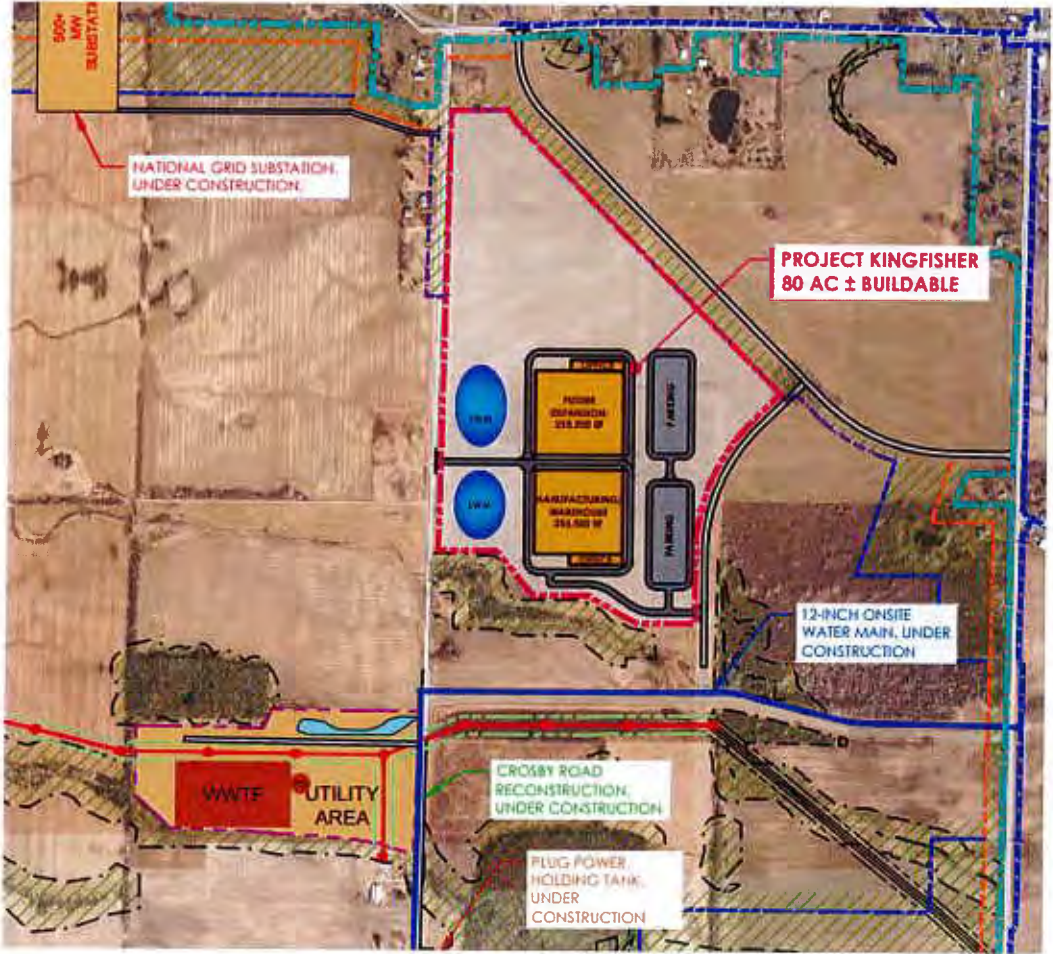
Notary Public

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

On this ____ day of _____ in the year 2022, before me personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed in the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

SCHEDULE A
(Parcel map)



Clark Patterson Lee Proposal for SEQR preparation for infrastructure at STAMP

Discussion: The GCEDC is currently preparing to complete a SEQR review of a couple of projects that are looking at the STAMP site. As a part of this review, the GCEDC has decided to include as much of the short term and long term infrastructure the is being contemplated at STAMP. This will enable less delays in permitting in the future when this infrastructure becomes necessary. In order to ensure that the SEQR analysis takes a hard look at the potential environmental impacts of this infrastructure, there is some design and engineering that needs to be completed. Clark Patterson Lee has prepared a proposal to reflect that work to support the SEQR analysis.

Fund Commitment: Not to exceed \$25,000.

Committee Action request: Recommend approval of the proposal from Clark Patterson Lee for the services needed to support the SEQR review of potential future infrastructure at STAMP.

November 16, 2022

Mark Masse, Senior Vice President of Operations
Genesee County Economic Development Center
99 Med Tech Drive, Suite 106
Batavia, NY 14020

**RE: STAMP SEQR AND ONSITE INFRASTRUCTURE PLANNING
PROPOSAL FOR ENGINEERING SERVICES**

Dear Mark:

CPL is pleased to submit our proposal for engineering services related to the SEQR update and onsite infrastructure planning for the STAMP site, located in the Town of Alabama.

Our proposal is based on the following:

- Our intimate knowledge of the STAMP project and our significant involvement in its development for over sixteen years.
- Our involvement with the STAMP Technical Team's recent planning and coordination efforts to address recent business and utility company activity at STAMP.

Based on our recent discussions and Technical Team meetings, we propose to provide the following Scope of Work:

1. Assist in completion of an updated SEQR Long Environmental Assessment Form.
2. Review of the previous Traffic Study SEQR thresholds.
3. Prepare concept level mapping of all onsite infrastructure.
4. Prepare conceptual sanitary sewer layout to accommodate Edwards Vacuum, Project Scannell, and Project Guard.
5. Prepare conceptual layout of process water to accommodate the STAMP campus.
6. Prepare conceptual layout and grading analysis for the Bypass Road.
7. Coordinate with the natural gas and electric utilities and prepare concept level mapping of their proposed infrastructure locations.

We propose to perform this Scope of Work for a **lump sum fee of \$25,000**.

The attached "STAMP SEQR and Onsite Infrastructure Planning Engineering Fee Estimate" provides a detailed breakdown of our proposed Scope of Work for this project, including Tasks, Man-Hours, and Fees.



The tasks performed as part of this proposal will be completed in accordance with similar tasks performed by CPL for previous STAMP Projects and other GCEDC/GGLDC Shovel Ready projects.

We appreciate the opportunity to submit our proposal and welcome the opportunity to assist you with this project. Upon your review, should you have any questions, please contact me at (585)402-7595.

Very truly yours,

CPL

Thomas A. Carpenter, P.E.
Vice President

Enclosures

Authorization By:

Signature: _____
GCEDC/GGLDC

Date: _____

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STAMP SEQR and Onsite Infrastructure Planning
 Engineering Fee Estimate
 Date: 11/16/2022

Tasks	Man-Hours								Fee
	Resource Principal	Principal	Sr Proj Managers	Project Managers	Engineers	Technicians	Surveyor	Inspector	
SEQR Long Form - Enabling Infrastructure		2	4	2	8				\$ 2,580.00
Traffic Study Review				4	4				\$ 1,100.00
Infrastructure Mapping				6	6	24			\$ 3,810.00
Sanitary Sewer Conceptual Layout: Scannell, Edwards, Guard	1	2	4	4	8	16			\$ 4,570.00
Process Water - Conceptual Layout Campus		2	4	4	8	16			\$ 4,320.00
Bypass Road Conceptual Layout, Grading review	1		4	8	8	24			\$ 5,390.00
Gas and Electric Coordination and Mapping			4	6	8	8			\$ 3,400.00
SEQR and Onsite Infrastructure Planning Total	2	6	20	34	50	88	0	0	\$ 25,170.00

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GCEDC

Jim Krencik, Marketing & Communications Director

Board Meeting Report

December 1, 2022

E3communications STAMP Public Relations and Social Media Services Contract

Discussion: e3communications, a professional media and public relations firm/consultant, has submitted a proposal for 2023 services related to public relations and social media marketing for the Western New York Science & Technology Advanced Manufacturing Park (STAMP).

In 2022, e3communications supported GCEDC staff with STAMP planning, sales and marketing, and government/stakeholder relations; including support of the Edwards Vacuum project announcement, Plug Power's construction, and related activities. e3communications also maintains an expanded social media presence to audiences in project development and the greater public.

Fund Commitment: \$24,000 fund commitment. Funding is available and budgeted in the 2023 GCEDC Marketing - Operations budget for the full contract.

Board Action Request: A renewal of services for the Jan. 1, 2023 to Dec. 31, 2023 period at \$24,000 per year.



November 18, 2022

Genesee County Economic Development Center
99 MedTech Drive
Batavia, NY 14020

RE: 2020 Agreement for Public Relations and Social Media Services for the Science Technology Advanced Manufacturing Plant (STAMP)

To Whom It May Concern:

Please find below the scope of services that e3communications is proposing to once again implement to market and promote STAMP on behalf of the Genesee County Economic Development Center for 2023.

- Manage public relations activities and provide public relations and public affairs counsel for various issues that have the potential to impact the STAMP project including advocacy efforts to raise awareness of STAMP.
- Design and act as administrator of social media channels for STAMP, including Facebook, Twitter and Instagram.
- Write copy for a monthly calendar of social media posts, including but not limited to ongoing infrastructure work; relevant economic development information in related science, technology and advanced manufacturing sectors; advocacy efforts related to ongoing investment at STAMP; and other information.
- Provide an analytics report on a monthly basis that will demonstrate and profile users of these social media channels and what posts are generating the most interest and traffic. This latter is important for developing future posts and information as well as to assist with other marketing communications tactics to promote STAMP.
- Provide advice and counsel regarding government relations outreach.
- Participate in meetings and other communications with the members of the STAMP Committee and technical team.
- Assist in the coordination of special events (press conferences, familiarization tours, news briefings, etc.).



- Write materials for public meetings and presentations.
- Manage media relations activities to enhance the messaging as well as to announce local/regional events
- Coordinate advocacy efforts to raise the awareness of STAMP regionally, nationally, and globally.
- Continue to monitor and track and distribute relevant news articles and placements and provide monthly report of marketing and public relations activities.

All work conducted by e3communications for STAMP in 2023 will be billed at a flat monthly fee of \$2,000 for a total fee of \$24,000. A description of the services will be provided in each invoice for the work conducted in that month. All terms are 30 days payment.

The terms outlined in this agreement shall remain in effect from January 1, 2023 until December 31, 2023 or until modified or terminated by either party upon thirty (30) days written or verbal notice.

e3communications pledges its confidentiality to STAMP for all work e3communications performs on behalf of STAMP.

If you are in agreement with the terms and conditions outlined above please indicate by signing below. Thank you again for the opportunity to work on behalf of the Science Technology Advanced Manufacturing Park.

Sincerely,
e3communications

A handwritten signature in black ink that reads "Earl V. Wells III". The signature is written in a cursive, flowing style.

Earl V. Wells III
President



For the Genesee County Economic Development Center

Name

Title

Date

memo



To: Jim Krencik
From: e3communications
Date: November 18, 2022
Re: 2022 Public Relations and Social Media Report

As of November 18, 2022, e3communications has provided approximately 650 hours of public relations, public affairs and social media services on behalf of the Genesee County Economic Development Center. At a blended rate of \$150 per hour, this calculates to approximately \$97,500 worth of services to the GCEDC thus far in 2022 by e3communications.

Below is a recap and highlight of our activities to date:

e3communications has issued approximately 42 news releases and news alerts to media outlets in the GLOW region and the Buffalo and Rochester media markets.

Among some of the highlights from an earned media perspective included:

- The 4th annual GLOW With Your Hands event in September at the Genesee County Fairgrounds, including various news releases to promote and publicize the event. The day of event coverage included media outlets from Buffalo and Rochester and a live interview on a Buffalo television station for Chris Suozzi.
- e3communications provided media outreach on behalf of the GLOW YMCA and Rochester Regional Health's United Memorial Medical Center for a groundbreaking event for the \$33.5 million Healthy Living Campus in downtown Batavia.
- In April, e3communications provided assistance with GE Renewable Energy for the company's ribbon-cutting ceremony to unveil a new research and development facility in the town of Bergen that will conduct research on how to 3D print the concrete base of towers used in wind turbines.

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Buffalo, New York 14202
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e3communications.com

e3communications
Public Relations Public Affairs

memo



- In June, New York Bus Sales broke ground on a \$4.5 million multi-use 20,000 sq. ft. facility today in the town of Batavia. This event resulted in media coverage across the WNY and Finger Lakes region, including a live interview with a Buffalo television station.
- Also in June, e3communications coordinated a press event for the groundbreaking of J&R Fancher Property Holdings LLC 14,000 sq. ft. mixed use development in the town of Pembroke at Buffalo East Technology Park.

As it pertains to our management of content and graphics and design and analytics for GCEDC and STAMP social media platforms, we have tracked the following results:

- STAMP Facebook: 517 Followers, 20% growth
- STAMP Twitter: 332 Followers, 13% growth
- GCEDC Facebook: 836 Followers, 33% growth
- GCEDC Twitter: 1,283 Followers, 2% growth
- GCEDC LinkedIn: 775 Followers, 104% growth

Our end goal is to maximize our reach/engagement on LinkedIn, as it is the top-rated social media platform for lead generation, making it the premier source for B2B marketing.

Twitter and Facebook are utilized to create awareness among regional stakeholders. Other economic partners (GRE, IBN, NYSEDC) do a great job of collaborating with GCEDC/STAMP on their respective social media channels.

Among are some of the highlighted content that created the greatest reach among followers on these channels include:

- Periodic updates related to Plug Power and STAMP
- Liberty Pumps Expansion
- GE Renewables Open House
- Rochester Regional Health Project Updates
- Edward's Vacuum Announcement
- Ellicott Station Groundbreaking
- J&R Fancher Groundbreaking
- Genesee CARES Awareness Campaign
- WNY Tech Academy Greenhouse Ribbon Cutting

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- Coach Swazz Corner, Workforce Development Program Highlights

Finally, from a public affairs perspective, we continue to provide assistance with regards to regulatory, labor and other issues impacting development at STAMP.

Please contact us with any questions regarding our public relations, social media and public affairs services on behalf of the GCEDC and STAMP.

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