

## RESOLUTION

A regular meeting of the County of Sullivan Industrial Development Agency ("Agency") was convened in public session on June 10, 2019, at 11:00 a.m., local time, at the Sullivan County Government Center, 100 North Street, Monticello, New York 12701.

The meeting was called to order by Chairman Ira Steingart, and, upon roll being called, the following members of the Agency were:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[ √ ]	[ ]
Suzanne Loughlin	[ √ ]	[ ]
Sean Rieber	[ ]	[ √ ]
Edward T. Sykes	[ √ ]	[ ]
Howard Siegel	[ √ ]	[ ]
Scott Smith	[ ]	[ √ ]
Paul Guenther	[ ]	[ √ ]
Joseph Perrello	[ √ ]	[ ]
Carol Roig	[ √ ]	[ ]

The following persons were also present:

Jennifer M. Flad, Executive Director  
Edward T. Sykes, Chief Executive Officer  
Julio Garaicoechea, Project Manager  
Walter F. Garigliano, Agency General Counsel

The following resolution was duly offered by Carol Roig, and seconded by Joseph Perrello, to wit:

Resolution No. 30 - 19

***RESOLUTION OF THE AGENCY APPOINTING NY DELAWARE IV, LLC ("COMPANY") AS AGENT OF THE AGENCY FOR THE PURPOSE OF (i) CONSTRUCTING THE PROJECT (HEREINAFTER DEFINED) ON THE LAND (HEREINAFTER DEFINED) TO BE LEASED TO THE AGENCY BY THE COMPANY AND LEASED BACK TO COMPANY BY THE AGENCY; (ii) ACQUIRING AND INSTALLING THEREON AND THEREIN THE SOLAR ARRAY (HEREINAFTER DEFINED) BY THE COMPANY; (iii) CONSTRUCTING IMPROVEMENTS ON THE LAND; (iv) LEASING THE PROJECT FROM THE COMPANY TO THE AGENCY; AND (v) LEASING THE PROJECT FROM THE AGENCY TO THE COMPANY***

**WHEREAS**, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 560 of the Laws of 1970 of the State of New York, as amended and codified as Section 960 of the General Municipal Law (collectively, the “Act”), the Agency was created with the authority and power to own, lease and sell property as authorized by the Act; and

**WHEREAS**, or about March 7, 2019, the Company presented an application (“Application”), requesting that the Agency consider undertaking a Project consisting of the construction of an approximately 2MW solar photovoltaic electricity generating facility that will be interconnected to the New York State Electric and Gas (“NYSEG”) electrical grid (“Project”) whereby NYSEG customers in NYSEG Load Zone E that are part of the Company’s Community Solar Program will receive such electricity at a discounted price to the then current NYSEG price. The Project is new construction and will be comprised of (a) racking to mount the solar modules (such racking generally to be pile driven into the ground); (b) solar modules; (c) inverters and transformers to sit on a concrete inverter pad and (d) assorted electrical components and wiring (“Solar Array”). The Solar Array will be constructed on one (1) parcel of real estate consisting of approximately 95.38± acres located at 93 Villa Roma Road, Town of Delaware (“Town”), County of Sullivan (“County”), State and identified on the Town tax map as Section 21, Block 1, Lot 28 (“Land”); and

**WHEREAS**, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of constructing and equipping the Project; (ii) negotiate and enter into a certain Lease to Agency (“Lease Agreement”), a certain Leaseback to Company (“Leaseback Agreement”) and a certain Payment In Lieu of Tax Agreement (“PILOT Agreement”) with the Company; (iii) take a leasehold interest in the Land, the improvements and personal property thereon which constitutes the Project (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated); and (iv) provide financial assistance to the Company in the form of (a) sales tax exemption for purchases related the construction and equipping of the Project (b) a mortgage tax exemption for financing related to the Project; and (c) a real property tax abatement on increased value resulting from improvements to the Land through the PILOT Agreement; and

**WHEREAS**, pursuant to Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (“SEQR”), the Agency constitutes a “State Agency”; and

**WHEREAS**, to aid the Agency in determining whether the Project may have significant adverse effects on the environment, the Company has presented an Environmental Assessment Form (“EAF”) to the Agency with respect to the Project for its review; and

**WHEREAS**, the Agency has given due consideration to the Application of the Company and to representations by the Company that the proposed financial assistance is an inducement to the Company to undertake the Project; and

**WHEREAS**, the Agency has considered the following matters as more fully set forth in its

Uniform Tax Exemption Policies:

- A. Permanent private sector job creation and retention;
- B. Estimated value of the tax exemption;
- C. Whether the affected taxing jurisdictions shall be reimbursed by the Company if the Project does not fulfill the purposes for which the exemption was granted;
- D. Impact of Project on existing and proposed business or economic development projects;
- E. The amount of private sector investment generated or likely to be generated by the proposed Project;
- F. Demonstrated public support for the proposed Project;
- G. Likelihood of accomplishing the proposed Project in a timely fashion;
- H. Environmental Impact;
- I. Extent to which the proposed Project will require additional services including but not limited to educational, police, transportation, EMS, and fire;
- J. Extent to which the proposed Project will provide additional revenues; and
- K. Extent to which the proposed Project will serve the public purposes of the Act by preserving permanent, private sector jobs or increasing the overall number of permanent, private sector jobs in the State;

and

*WHEREAS*, the Agency desires to encourage the Company to advance the job opportunities, health, general prosperity and economic welfare of the people of Sullivan County, New York by providing the contemplated financial assistance and undertaking the Project.

*NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE AGENCY AS FOLLOWS:*

Section 1. The Company has presented to the Agency, among other things:

- (A) An Application in form acceptable to the Agency; and
- (B) An Environmental Assessment Form.

Section 2. Based upon (i) the representations made by the Company to the Agency; (ii) a review of the EAF presented to the Agency, the EAF reviewed and acted upon by the Town of Delaware Planning Board, and (iii) related documents, the Agency hereby determines that:

- (A) The Project constitutes a Type I Action under the SEQR;
- (B) The Project will result in no major impacts and, therefore, is one which will not cause significant damage to the environment;
- (C) The Project will not have a "significant effect on the environment" as such quoted terms are defined in Article 8 of the Environmental Conservation Law and Regulations adopted pursuant thereto by the Department of

- Environment Conservation;
- (D) No “environmental impact statement” as such quoted term is defined in SEQR, need be prepared for this action; and
  - (E) This determination constitutes a negative declaration for purposes of SEQR.

A copy of this resolution shall together with the attachments thereto be placed on file in the office of the Agency where the same shall be available for public inspection during business hours, and notices of this negative declaration shall be filed in such offices, posted in such places, and published in such publications as shall be necessary to conform with the requirements of SEQR.

Section 3. Based upon representations made by the Company to the Agency, the Agency hereby makes, finds and determines as follows:

- (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;
- (B) It is desirable and in the public interest for the Agency to (i) take a leasehold interest in the Land and to take title to the improvements and personal property constituting the Project; (ii) appoint the Company as its agent for purposes of constructing and equipping the Project, and (iii) leaseback the Land, the improvements and personal property constituting the Project to the Company pursuant to the Leaseback Agreement and subject to the Lease Agreement and the PILOT Agreement;
- (C) The Agency has the authority to take the actions contemplated therein 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 Sullivan County and otherwise furthering the purposes of the Agency as set forth in the Act.

Section 4. Subject to the Company executing an Agent and Project Agreement in form and substance approved by the Project Liaison, the Agency hereby authorizes the Company to proceed with the construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency to construct and equip the Project on behalf of the Agency; with the authority to delegate its status as agent of the Agency to the Company’s agents, subagents, contractors, subcontractors, suppliers, vendors and other such parties as the Company may chose. The appointment described above includes the following activities as they relate to the construction and equipping of the Project, whether or not the materials, services or supplies described below are incorporated into or become an integral part of the Project; (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with constructing and equipping the Project; (ii) all purchases, rentals, uses or consumption of supplies, materials and

services of every kind and description in connection with constructing and equipping of the Project; and (iii) all purchases, leases, rentals and uses of equipment, machinery, and other tangible personal property (including installation costs with respect thereto), installed or placed in, upon or under the Project, including all repairs and replacements of such property. This agency appointment includes the power to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agents for the Agency, and in general to do all things which may be requisite or proper for completing the Project, all with the same powers and with the same validity as the Agency could do if acting on its own behalf. The aforesaid appointment of the Company as agent of the Agency to construct and equip the Project shall expire on December 31, 2019 if the Lease Agreement, Leaseback Agreement and PILOT Agreement have not been executed and delivered.

Section 5. The Project Liaison of the Agency is hereby authorized, on behalf of the Agency, to negotiate definitive terms of the Lease Agreement, Leaseback Agreement and PILOT Agreement; provided (i) the 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 PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 6. 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 this resolution 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 7. It is hereby found and determined that all formal actions of the Agency concerning and relating to the adoption of this resolution were adopted in an open meeting of the Agency; and that all deliberations of the Agency and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements.

Section 8. The Executive Director, Counsel to the Agency or the Project Liaison are hereby authorized and directed (i) to distribute copies of this resolution to the Company; and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 9. This resolution shall take effect immediately.

THE MEMBERS VOTED ON THE FOREGOING RESOLUTION AS FOLLOWS:

Ira Steingart	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Suzanne Loughlin	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Sean Rieber	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Edward T. Sykes	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input checked="" type="checkbox"/> Abstain
Howard Siegel	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Scott Smith	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Paul Guenther	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Joseph Perrello	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain
Carol Roig	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Absent	<input type="checkbox"/> Abstain

The resolutions were thereupon duly adopted.

STATE OF NEW YORK :  
:SS  
COUNTY OF SULLIVAN :

I, the undersigned (Assistant) Secretary of the Agency DO HEREBY CERTIFY THAT:

1. I have compared the foregoing copy of a resolution of the Agency with the original thereof on file in the office of the Agency, and that the same is a true and correct copy of such resolution and of the proceedings of the Agency in connection with such matter.
2. Such resolution was passed at a meeting of the Agency duly convened in public session on the 10<sup>th</sup> day of June, 2019 at 11:00 a.m. at the Sullivan County Government Center, 100 North Street, Village of Monticello, Sullivan County, New York, at which the following members were present:

	<u>PRESENT</u>	<u>ABSENT</u>
Ira Steingart	[ <input checked="" type="checkbox"/> ]	[       ]
Suzanne Loughlin	[ <input checked="" type="checkbox"/> ]	[       ]
Sean Rieber	[       ]	[ <input checked="" type="checkbox"/> ]
Edward T. Sykes	[ <input checked="" type="checkbox"/> ]	[       ]
Howard Siegel	[ <input checked="" type="checkbox"/> ]	[       ]
Scott Smith	[       ]	[ <input checked="" type="checkbox"/> ]
Paul Guenther	[       ]	[ <input checked="" type="checkbox"/> ]
Joseph Perrello	[ <input checked="" type="checkbox"/> ]	[       ]
Carol Roig	[ <input checked="" type="checkbox"/> ]	[       ]

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

Ira Steingart	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Suzanne Loughlin	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Sean Rieber	[   ] Yes	[   ] No	[ <input checked="" type="checkbox"/> ] Absent	[   ] Abstain
Edward T. Sykes	[   ] Yes	[   ] No	[   ] Absent	[ <input checked="" type="checkbox"/> ] Abstain
Howard Siegel	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Scott Smith	[   ] Yes	[   ] No	[ <input checked="" type="checkbox"/> ] Absent	[   ] Abstain
Paul Guenther	[   ] Yes	[   ] No	[ <input checked="" type="checkbox"/> ] Absent	[   ] Abstain
Joseph Perrello	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain
Carol Roig	[ <input checked="" type="checkbox"/> ] Yes	[   ] No	[   ] Absent	[   ] Abstain

and therefore, the resolution was declared duly adopted.

I FURTHER CERTIFY that (i) all members of the Agency had due notice of said meeting, (ii) pursuant to Sections 103a and 104 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public and public notice of the time and place of said meeting was duly given in accordance with such Sections 103a and 104, (iii) the meeting in all respects was duly held, and (iv) there was a quorum present throughout.

*IN WITNESS WHEREOF*, I have hereunto set my hand and seal on the 10<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
Assistant Secretary