

CICERO ENERGY STORAGE II, LLC PROJECT

**APPROVING RESOLUTION
(3101-20-06A)**

At a regular meeting of the Onondaga County Industrial Development Agency (the "Agency") convened in public session on May 12, 2020, at 8:00 a.m. at 333 W. Washington Street, Syracuse, New York, the following members were:

PRESENT: Patrick Hogan
Janice Herzog
Victor Ianno
Steve Morgan
Susan Stanczyk
Kevin Ryan

ABSENT: Fanny Villarreal

ALSO PRESENT: Robert M. Petrovich, Executive Director
Jeffrey W. Davis, Esq., Agency Counsel
Amanda M. Mirabito, Esq., Agency Counsel

The following resolution was offered by Susan Stanczyk, seconded by Janice Herzog, to wit:

RESOLUTION APPROVING CONSTRUCTION OF A 5 MW PHOTOVOLTAIC SOLAR FACILITY AND BATTERY ENERGY STORAGE SYSTEM FOR CICERO ENERGY STORAGE II, LLC AND AUTHORIZING EXECUTION OF DOCUMENTS IN CONNECTION WITH A LEASE/LEASEBACK TRANSACTION.

WHEREAS, Onondaga County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 435 of the Laws of 1970 of the State of New York and Chapter 676 of the Laws of 1975, as amended, constituting Section 895 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York (the "State"), to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, Cicero Energy Storage II, LLC, a Delaware limited liability company (the “Company”), has submitted an application (the “Application”), on behalf of itself and entities formed or to be formed on its behalf, to the Agency, a copy of a copy of which Application is on file at the office of the Agency, which Application requests that the Agency consider undertaking a project (the “Project”) for the benefit of the Company and/or entities formed or to be formed on its behalf, said Project consisting of the following: (A)(1) acquisition or retention of an interest in approximately 42 acres of land located at located at 6256 Island Road in the Town of Cicero, Onondaga County, New York (the “Land”); (2) construction on the Land of a 5-megawatt (MW) photovoltaic solar power facility and battery energy storage system, including solar panels, power conversion unit, transformers, inverters and other appurtenances (the “Facility”); and (3) acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); and (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, and mortgage recording taxes (subject to the limitations imposed by the Act) (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, the members of the Agency adopted a resolution on April 14, 2020 (the “Public Hearing Resolution”) authorizing a public hearing with respect to the Project in compliance with the provisions of Section 859-a of the Act; and

WHEREAS, pursuant to the authorization contained in the Public Hearing Resolution, the Executive Director of the Agency (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on April 21, 2020 to the chief executive officers of the county and of each city, town, village and school district (collectively the “Affected Tax Jurisdictions”) in which the Project Facility is located, (B) caused notice of the Public Hearing to be published on April ___, 2020 in The Post-Standard, a newspaper of general circulation available to the residents of the Town of Elbridge, Onondaga County, New York, (C) conducted the Public Hearing on May 6, 2020 at 10:00 a.m., local time via remote means (Zoom videoconference) in accordance with N.Y. Governor Andrew Cuomo’s Executive Order 202.1 in response to the COVID-19 Pandemic, and (D) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; and

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

the Project has been subject to an environmental review resulting in the issuance of a negative declaration by the Agency by resolution dated May 12, 2020; and

WHEREAS, the Agency has given due consideration to the Application, and to representations by the Company that (A) the granting by the Agency of the Financial Assistance with respect to the Project will be an inducement to the Company to undertake the Project in Onondaga County, New York and (B) completion of the Project will not result in the removal of a plant or facility of any proposed occupant of the Project Facility from one area of the State to another area in the State and will not result in the abandonment of one or more plants or facilities of an occupant of the Project Facility located in the State; and

WHEREAS, the Agency desires to encourage the Company to preserve and advance the job opportunities, health, general prosperity and economic welfare of the people of Onondaga County, New York by undertaking the Project in Onondaga County, New York; and

WHEREAS, in order to consummate the Project and the granting of the Financial Assistance described in the notice of the Public Hearing, the Agency proposes to enter into the following documents (hereinafter collectively referred to as the "Agency Documents"): (A) a certain underlying lease agreement (and a memorandum thereof) (the "Underlying Lease") by and between the Company and the Agency pursuant to which the Company will lease to the Agency the Land and all improvements now or hereafter located on the Land; (B) a certain lease agreement (and a memorandum thereof) (the "Lease Agreement") by and between the Company and the Agency pursuant to which the Company will agree to undertake the Project as agent of the Agency and the Company further agrees to lease the Project Facility from the Agency and, as rental thereunder, to pay the Agency's administrative fee relating to the Project and to pay all expenses incurred by the Agency with respect to the Project; (C) a payment in lieu of tax agreement (the "PILOT Agreement") by and among the Agency and the Company, pursuant to which the Company will agree to pay certain payments in lieu of taxes with respect to the Project Facility; (D) a project agreement (the "Project Agreement") by and among the Agency and the Company that complies with the requirements of Section 859-a(6) of the Act; (E) a New York State Department of Taxation and Finance form entitled "IDA Appointment of Project Operator or Agency for Sales Tax Purposes" (the form required to be filed pursuant to Section 874(9) of the Act) (the "Thirty-Day Sales Tax Report") and any additional report to the Commissioner of the State Department of Taxation and Finance concerning the amount of sales tax exemption benefit for the Project (the "Additional Thirty-Day Project Report"); (F) if the Company intends to finance the Project with borrowed money, a mortgage and any other security documents and related documents (collectively, the "Mortgage") from the Agency and the Company to the Company's lender with respect to the Project (the "Lender"), which Mortgage will grant a lien on and security interest in the Project Facility to secure a loan from the Lender to the Company with respect to the Project (the "Loan"); and (G) various certificates relating to the Project (the "Closing Documents"); and

WHEREAS, the Agency will file with the assessor and mail to the chief executive officers of each "affected tax jurisdiction" (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form RP-412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption

with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (a “Real Property Tax Exemption Form”) relating to the Project; and

WHEREAS, simultaneously with the execution and delivery of the Agency Documents, the Agency will file with the State Department of Taxation and Finance the Thirty-Day Sales Tax Report and provide a copy of the Thirty-Day Sales Tax Report to the Operating Company; and

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

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

Section 1. The Agency, based upon the representations made by the Company to the Agency in the Application, 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;

(B) The Project constitutes a “project,” as such term is defined in the Act;

(C) The Project site is located entirely within the boundaries of Onondaga County, New York;

(D) It is estimated at the present time that the costs of the planning, development, renovation, construction and installation of the Project Facility (collectively, the “Project Costs”) will be approximately \$12,255,581;

(E) The completion of the Project will not result in the removal of a solar plant or facility of any proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of a facility of any proposed occupant of the Project Facility located in the State; and

(F) (1) The Project Facility does not constitute a project where facilities or property that are primarily used in making retail sales of goods and/or services to customers who personally visit such facilities constitute more than one-third of the total cost of the Project, and accordingly the Project is not prohibited by the provisions of Section 862(2)(a) of the Act, and (2) accordingly the Agency is authorized to provide financial assistance in respect of the Project pursuant to Section 862(2)(a) of the Act;

(G) The acquisition, construction and equipping of the Project Facility and the leasing of the Project Facility to the Company is reasonably necessary to induce the Company to establish, maintain and/or expand business operations in the State;

(H) Based upon representations of the Company and counsel to the Company, the Project Facility conforms with the local zoning laws and planning regulations of Onondaga County and all regional and local land use plans for the area in which the Project Facility is located;

(I) The granting of the Financial Assistance by the Agency with respect to the Project will promote and maintain the job opportunities, general prosperity and economic welfare of the citizens of Onondaga County, New York and the State and improve their standard of living, and thereby serve the public purposes of the Act;

(J) The Agency has reviewed the Public Hearing Report and has fully considered all comments contained therein;

(K) The Project should receive the Financial Assistance in the form of exemptions from certain sales and use taxes and real property taxes (subject to statutory limitations) based on the description of expected public benefits to occur as a result of this Project, as described in the Application, and failure by the Company to meet the expected public benefits will result in a recapture event, as described in the Lease Agreement and Project Agreement;

(L) The Financial Assistance will be consistent with the Agency's Uniform Tax Exemption Policy; and

(M) It is desirable and in the public interest for the Agency to enter into the Agency Documents.

Section 2. The amount of State and local sales and use tax exemption benefits and mortgage recording tax exemption benefits comprising the Financial Assistance approved herein shall not exceed \$768,000 and \$68,937.75 respectively. The payments in lieu of real property taxes payable by the Company with respect to the Project Facility pursuant to the PILOT Agreement shall be in the amounts set forth in Exhibit A hereto.

Section 3. In consequence of the foregoing, the Agency hereby determines to: (A) proceed with the Project; (B) acquire and/or retain a leasehold interest in the Land and all improvements now or hereafter located on the Land from the Company pursuant to the Underlying Lease and acquire the Equipment pursuant a bill of sale from the Company; (C) lease the Project Facility to the Company pursuant to the Lease Agreement; (D) acquire, construct and equip the Project Facility, or cause the Project Facility to be acquired, constructed and equipped, as provided in the Lease Agreement; (E) secure any loan the proceeds of which will be used to acquire, construct and equip the Project Facility by granting a mortgage lien on the Agency's interest in the Project Facility and entering into one or more mortgages and/or assignments of leases and rents in favor of the lender(s); and (F) grant to the Company Financial Assistance with respect to the Project.

Section 4. The Agency is hereby authorized to acquire, construct and equip the Project Facility as described in the Agency Documents, to appoint the Company as agent of the Agency to undertake such acquisition, construction and equipping of the Project Facility as described in the Agency Documents, and to do all things necessary or appropriate for the accomplishment

thereof, and all acts heretofore taken by the Agency with respect to such acquisition, construction and equipping are hereby ratified, confirmed and approved.

Section 5. The Chairman (or Vice Chairman) and the Executive Director of the Agency, with the assistance of Agency Counsel, are authorized to negotiate and approve the form and substance of the Agency Documents.

Section 6. (A) The Chairman (or Vice Chairman) and the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the Agency Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in the forms thereof as the Chairman (or Vice Chairman) and the Executive Director shall approve, the execution thereof by the Chairman (or Vice Chairman) and the Executive Director to constitute conclusive evidence of such approval. (B) The Chairman (or Vice Chairman) and the Executive Director of the Agency are hereby further authorized, on behalf of the Agency, to designate any additional Authorized Representatives of the Agency (as defined in and pursuant to the Lease Agreement).

Section 7. The Agency shall maintain records of the amount of State and local sales and use tax exemption benefits provided to the Project and each agent or Project operator and shall make such records available to the State Commissioner of Taxation and Finance (the "Commissioner") upon request. The Agency shall, within thirty (30) days of providing any State sales and use tax exemption benefits, report to the Commissioner the amount of such benefits for the Project, identifying the Project, along with any such other information and specificity as the Commissioner may prescribe. As a condition precedent to the Company's receipt of, or benefit from, any State or local sales and use tax exemptions, the Company must acknowledge and agree to make, or cause their agents and/or operators to make, all records and information regarding State and local sales and use tax exemption benefits available to the Agency upon request. The provisions of Section 875 of the Act are hereby incorporated herein as if set forth herein and the Agency agrees that it shall comply with the requirements of such Section 875 of the Act.

Section 8. The Agency hereby delegates to the Company, as agents of the Agency, the authority to designate (following the execution and delivery of the Agency Documents), agents and sub-agents of the Agency (each, a "Sub-Agent") for purposes of utilizing the Agency sales and use tax exemption with respect to the acquisition, construction and equipping of the Project Facility; provided that any such sub-agency designation shall become effective only upon submission to the Agency within fifteen (15) days of such agency and sub-agency designation: (1) an executed subagent appointment agreement (in a form approved by the Agency) and (2) a completed Form ST-60 of the New York State Department of Taxation and Finance (IDA Appointment of Project Sublessee or Agent for Sales Tax Purposes). Such agents and sub-agents may include contractors and subcontractors involved in the acquisition, construction and installation of the Project Facility.

Section 9. The terms and conditions of subdivision 3 of Section 875 of the Act are herein incorporated by reference and the Company and/or any Sub-Agent shall agree to such terms as a condition precedent to receiving or benefiting from an exemption from State and local sales and use tax exemptions benefits.

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 or provided for by the provisions of the Agency Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Agency Documents binding upon the Agency.

Section 11. This Resolution 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:

The Resolution was thereupon declared duly adopted.

	<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Patrick Hogan	X			
Janice Herzog	X			
Victor Ianno	X			
Steve Morgan	X			
Susan Stanczyk	X			
Kevin Ryan				X
Fanny Villarreal			X	

EXHIBIT A

PILOT Schedule

CES II

Year	Onondaga County	Town of Cicero	North Syracuse CSD	Total PILOT	Full Tax Payment without PILOT	Net Exemption
	15.0%	16.6%	68.4%	100.0%		
2019-2020	\$ 1,054	\$ 1,168	\$ 4,814	\$ 7,036		
1	\$ 3,371	\$ 3,734	\$ 15,395	\$ 22,500	\$ 7,178.42	\$ (15,324)
2	\$ 3,439	\$ 3,809	\$ 15,702	\$ 22,950	\$ 7,319.95	\$ (15,630)
3	\$ 3,507	\$ 3,885	\$ 16,016	\$ 23,409	\$ 7,466.35	\$ (15,943)
4	\$ 3,578	\$ 3,963	\$ 16,337	\$ 23,877	\$ 7,615.67	\$ (16,262)
5	\$ 3,649	\$ 4,042	\$ 16,664	\$ 24,355	\$ 7,767.99	\$ (16,587)
6	\$ 3,722	\$ 4,123	\$ 16,997	\$ 24,842	\$ 7,923.35	\$ (16,918)
7	\$ 3,797	\$ 4,205	\$ 17,337	\$ 25,339	\$ 8,081.81	\$ (17,257)
8	\$ 3,873	\$ 4,289	\$ 17,683	\$ 25,845	\$ 8,243.45	\$ (17,602)
9	\$ 3,950	\$ 4,375	\$ 18,037	\$ 26,362	\$ 8,408.32	\$ (17,954)
10	\$ 4,029	\$ 4,463	\$ 18,398	\$ 26,890	\$ 8,576.48	\$ (18,313)
11	\$ 4,110	\$ 4,552	\$ 18,766	\$ 27,427	\$ 8,748.01	\$ (18,679)
12	\$ 4,192	\$ 4,643	\$ 19,141	\$ 27,976	\$ 8,922.97	\$ (19,053)
13	\$ 4,276	\$ 4,736	\$ 19,524	\$ 28,535	\$ 9,101.43	\$ (19,434)
14	\$ 4,361	\$ 4,831	\$ 19,914	\$ 29,106	\$ 9,283.46	\$ (19,823)
15	\$ 4,448	\$ 4,927	\$ 20,313	\$ 29,688	\$ 9,469.13	\$ (20,219)
16	\$ 4,537	\$ 5,026	\$ 20,719	\$ 30,282	\$ 9,663.35	\$ (20,619)
17	\$ 4,628	\$ 5,126	\$ 21,133	\$ 30,888	\$ 9,863.35	\$ (21,025)
18	\$ 4,721	\$ 5,229	\$ 21,556	\$ 31,505	\$ 10,069.35	\$ (21,444)
19	\$ 4,815	\$ 5,333	\$ 21,987	\$ 32,136	\$ 10,281.35	\$ (21,875)
20	\$ 4,911	\$ 5,440	\$ 22,427	\$ 32,778	\$ 10,499.35	\$ (22,319)
21	\$ 5,010	\$ 5,549	\$ 22,875	\$ 33,434	\$ 10,723.35	\$ (22,775)
22	\$ 5,110	\$ 5,660	\$ 23,333	\$ 34,102	\$ 10,953.35	\$ (23,244)
23	\$ 5,212	\$ 5,773	\$ 23,800	\$ 34,785	\$ 11,189.35	\$ (23,721)
24	\$ 5,316	\$ 5,888	\$ 24,276	\$ 35,480	\$ 11,431.35	\$ (24,211)
25	\$ 5,422	\$ 6,006	\$ 24,761	\$ 36,190	\$ 11,679.35	\$ (24,711)
	\$ 107,983	\$ 119,697	\$ 493,091	\$ 720,682	\$ 242,106	\$ (478,576)

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

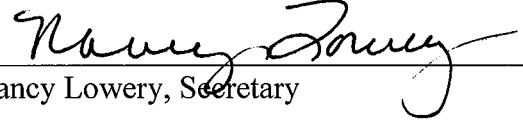
I, the undersigned Executive Director of the Onondaga County Industrial Development Agency, DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on May 12, 2020, with the original thereof on file in my office, and that the same is a true and correct copy of such proceedings of the Agency and of such Resolution set forth therein and of the whole of said original so far as the same relates to the subject matter therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting, (B) said meeting was in all respects duly held, (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law") as modified by N.Y Governor Andrew Cuomo's Executive Order 202.1 in response to the COVID-19 pandemic, said meeting was open to the general public and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law as modified by Executive Order 202.1, and (D) 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 rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand this 15 day of May, 2020.

(SEAL)



Nancy Lowery, Secretary