

***Chenango County Industrial Development Agency***

15 South Broad Street  
Norwich, New York 13815  
607-334-1400

Date: January 25, 2023

From: Brian Burton

To: Jeff Blanchard  
Randy Gibbon, P.E.  
Michael Khoury  
Pete Raymond  
Martha Ryan  
Taylor Zieno  
George Seneck  
Kevin Pole

The Evening Sun  
Shane Butler, Planning Department

**Subject: CCIDA Board of Directors Meeting**

The February CCIDA Board meeting will begin at 8:00 a.m. on **Wednesday February 8, 2023**, at the Commerce Chenango Office, 15 South Broad Street, Norwich NY.

The meeting is open to the public and will be streamed live on the Chenango County IDA YouTube Channel. The link can be found on the Chenango County IDA website: [commercechenango.com](http://commercechenango.com)

All Board members are asked to be present for this meeting.

Please RSVP at your earliest convenience by e-mail at [bknowles@chenangony.org](mailto:bknowles@chenangony.org) and if you have any questions, you may contact us at 607-334-5532.

Thank you.

**Chenango County IDA Board  
 Regular Meeting Agenda  
 February 8, 2023 | 8:00 a.m.  
 Commerce Chenango, Community Room**



- I. Roll Call (B. Burton)
- II. IDA Mission Statement: *“Our mission is to promote, develop, encourage, and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and recreation facilities including industrial pollution control facilities, educational or cultural facilities, railroad facilities, and continuing care retirement communities. To provide financial assistance and thereby advance the job opportunities, health, general prosperity, and economic welfare of the people of the county of Chenango and to improve their recreation opportunities, prosperity, and standard of living.”*  
(Approved March 24, 2022)
- III. Approval of Minutes
  - a. January 18, Meeting Minutes
- IV. Financial Report
  - a. January 31, 2023, Financial Statements
- V. Bills & Invoices

Commerce Chenango, Inc: <i>Copies, postage &amp; Contracted Services, Travel</i>	\$12,203.10
NYSEG: <i>ProTel</i>	\$2,424.00
<b>Total:</b>	<b>\$14,627.10</b>

- VI. PILOTs
  - a. NY Smyrna I, LLC - Legal Document Review
- VII. Executive Director Update.
- VIII. Old Business
  - a. UTEP – Approval
  - b. IDA Property Update:
    - i. Earl B. Clark Sale
    - ii. 5-7 Scott St., Bainbridge Sale
- IX. New Business -
  - a. New IDA Legislation
- X. Adjournment



**Chenango County IDA  
Board Meeting Minutes  
January 18, 2023 | 8:00 a.m.**

Present: B. Burton; J. Blanchard; P. Raymond; R. Gibbon; M. Ryan M. Khoury; T Zieno

Staff: S. Testani; B. Knowles; KathyJo Graves

Guest: George Seneck; M. Gladstone; Stephen Harris

1. B. Burton called the regular board meeting to order at 8:00 am.
2. Roll call.
3. B. Burton waived the reading of the IDA Mission Statement.
4. Upon review, motion to approve the December 20, 2022, meeting minutes made by P. Raymond seconded by R. Gibbon. Ayes all. T. Zieno and M. Khoury Abstained. Approved.
5. KJ. Graves reviewed the December 31st Financial Statement.
  - a. Motion to approve the December 31st Financial Statement as presented made by J. Blanchard, seconded by P. Raymond. Ayes all. Approved.
6. Bills & Invoices were reviewed in detail:
  - a. Motion to approve the Bills & Invoices made by M. Khoury, seconded by J. Blanchard. Ayes all. Approved.
  - b. B. Knowles made a suggestion that utility bills be pre-paid before the board meetings to avoid late fees. The Board will approve a resolution to do this at the March 2023 reorganizational meeting.
  - c. Motion to approve the invoice from the Town of Bainbridge for \$157.40 for the 5 Walnut Ave, Bainbridge property water bill made by R. Gibbon seconded by M. Khoury. Ayes all. Approved.
7. Stephen Harris from Chenango County Real Property gave a presentation regarding PILOTs specifically solar and wind projects.
  - a. There was discussion regarding how much the IDA should charge the solar developers per megawatt.
8. Old Business
  - a. The revised CCIDA Mission Statement will be approved by the Board at the March 2023 reorganizational meeting.
  - b. Motion was made by P. Raymond to give S. Testani authority to sign the Amended & Restated Lease Agreement with Norwich Meadows Farm for the Earl B. Clark property when this agreement with CCIDA's amendments is accepted by Norwich Meadows Farm seconded by T. Zieno. Ayes all. Approved
9. Motion to adjourn made by R. Gibbon seconded by M. Khoury. Ayes all. Approved.  
Meeting adjourned at 9:21 a.m.

Respectfully Submitted,

*Barbara Knowles*

Barbara Knowles  
IDA Board Recorder

DRAFT

County of Chenango IDA  
**Statement of Financial Position**  
January 31, 2023

	Note	January 31, 2023	December 31, 2022
<b>ASSETS</b>			
<b>Current Assets</b>			
Checking #6274	\$	342,464.92	\$ 345,639.04
Money Market #2574		536,629.98	536,060.88
RR Project Checking #6598		-	-
Accounts Receivable	(1)	153,832.64	5,046.51
Financing Lease	(2)	24,423.18	24,423.18
Prepaid Expense	(3)	9,531.07	9,531.07
Total Current Assets		1,066,881.79	920,700.68
<b>Property and Equipment</b>			
Land - Industrial Parks		238,000.00	238,000.00
Building - Industrial Parks		156,402.35	156,402.35
Improvements - Buildings		-	-
Improvements-Property Devel.		-	-
Less: Accumulated Depreciation	(4)	(1,303.58)	(1,303.58)
Total Property and Equipment		393,098.77	393,098.77
<b>Total Assets</b>		<b>\$ 1,459,980.56</b>	<b>\$ 1,313,799.45</b>
<b>LIABILITIES AND FUND BALANCE</b>			
<b>Current Liabilities</b>			
Accounts Payable	(5)	\$ 14,627.10	\$ 4,019.56
Prepaid Rental Income	(6)	\$ 1,500.00	\$ 1,500.00
Total Current Liabilities		16,127.10	5,519.56
<b>Long-Term Liabilities</b>			
Total Liabilities		16,127.10	5,519.56
<b>Fund Balance</b>			
Fund Balance		1,308,279.89	1,370,377.82
Net Activity		135,573.57	(62,097.93)
Total Fund Balance		1,443,853.46	1,308,279.89
<b>Total Liabilities &amp; Fund Balance</b>		<b>\$ 1,459,980.56</b>	<b>\$ 1,313,799.45</b>

**Note**

- (1) See Aged Receivable Listing
- (2) Cascun Financing Lease from Property for Sale/Lease-ended 02.2022
- (3) Prepaid Insurance as of 12/31/22
- (4) Recorded Annual Depreciation thru 12/31/22 & Removed Incubator Building/Added 5 Walnut Ave
- (5) See Aged Payables Listing
- (6) Everything Bagelry Security Deposit

**County of Chenango IDA**  
**Aged Receivables**  
**As of January 31, 2023**

Customer	0-30	31-60	61-90	Over 90 days	Amount Due
Everything Bagelty		2,163.14			2,163.14
High Bridge Wind LLC					105,856.94
NYS&W Railway	105,856.94				1,750.00
Norwich-Chenango Solar LLC	1,750.00				1,125.21
Norwich Alvogen	1,125.21				14,000.00
Pro-Tel Properties LLC	14,000.00				4,179.35
Puckett Solar	2,424.00	1,755.35			24,758.00
	24,758.00				-
	<b>149,914.15</b>	<b>3,918.49</b>	-	-	<b>153,832.64</b>

**County of Chenango IDA  
Aged Payables  
As of January 31, 2023**

Vendor	0 - 30	31 - 60	61 - 90	Over 90 days	Amount Due
Commerce Chenango	12,203.10				12,203.10
NYSEG	2,424.00				2,424.00
					-
					-
	<b>14,627.10</b>	-	-	-	<b>14,627.10</b>

County of Chenango IDA  
**Statement of Activities**  
As of January 31, 2023

Note	January 2023		January 2023		Year to Date Actual	Year to Date		Better (Worse)		2023	
	Actual	Budget	Budget	Actual		Budget	Budget	Budget	Budget	Budget	
<b>Revenues</b>											
Clark Park Rent	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ 450.00	\$ -	\$ -	\$ 1,350.00	\$ 1,350.00	
Sale to Clark Park				-	-	-	-	-	60,000.00	60,000.00	
On The Rail Processing/Cascun				-	-	-	-	-	-	-	
Airport [ProTel] Utility Reimb	2,424.00			2,424.00			2,424.00				
Everything Bagelry Rent	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	-	-	18,000.00	18,000.00	
Everything Bagelry Utility Reimb		1,041.00	1,041.00	-	-	1,041.00	(1,041.00)		12,500.00	12,500.00	
New Project Fees				-	-	-	-	-	-	-	
BID Tax Reimbursement	250.00	250.00	250.00	250.00	250.00	250.00	-	-	250.00	250.00	
<b>PILOT/Project Fees</b>											
NYS&W Project Fee	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	1,500.00	-	-	1,500.00	1,500.00	
Norwich Pharm Project Fees	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	14,000.00	-	-	14,000.00	14,000.00	
Norwich-Chenango Solar Project	1,125.21	1,125.21	1,125.21	1,125.21	1,125.21	1,125.21	-	-	1,125.21	1,125.21	
Puckett Solar Project	24,758.00	24,758.00	24,758.00	24,758.00	24,758.00	24,758.00	-	-	24,758.00	24,758.00	
Tiffany Solar Project	1,510.00	1,510.00	1,510.00	1,510.00	1,510.00	1,510.00	-	-	1,510.00	1,510.00	
Norbut Solar Coventry Project				-	-	-	-	-	1,500.00	1,500.00	
High Bridge Wind - Guilford Solar	105,856.94	105,856.94	105,856.94	105,856.94	105,856.94	105,856.94	-	-	105,856.94	105,856.94	
Other Income				-	-	-	-	-	2,500.00	2,500.00	
Interest Income	569.10	59.00	59.00	569.10	59.00	59.00	510.10		700.00	700.00	
<b>Other Revenues</b>											
Total Revenues	153,943.25	152,050.15	153,943.25	153,943.25	152,050.15	152,050.15	1,893.10		245,550.15	245,550.15	
<b>Expenditures</b>											
Contracted Services	12,203.10	12,372.62	12,372.62	12,203.10	12,372.62	12,372.62	169.52		148,471.50	148,471.50	
Project Fees to DCC				-	-	-	-	-	5,000.00	5,000.00	
Advertising & Marketing		416.00	416.00	-	416.00	416.00	416.00		5,000.00	5,000.00	
Office Supplies/Postage		50.00	50.00	-	50.00	50.00	50.00		600.00	600.00	
Software & Equipment				-	-	-	-	-	-	-	
Travel/Training		166.00	166.00	-	166.00	166.00	166.00		2,000.00	2,000.00	
Auditing Expense				-	-	-	-	-	6,800.00	6,800.00	
Insurance Expense				-	-	-	-	-	11,000.00	11,000.00	
Legal Expense				-	-	-	-	-	1,000.00	1,000.00	
N. Norwich Road Tax	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	2,000.00	-	-	2,000.00	2,000.00	
BID Tax	250.00	250.00	250.00	250.00	250.00	250.00	-	-	250.00	250.00	



County of Chenango IDA  
**Statement of Activities**  
As of January 31, 2023

	Note	January 2023		Year to Date Actual	Year to Date		Better (Worse)		2023	
		Actual	Budget		Budget	Budget	Budget	Budget		
Airport [ProTel] Utilities		2,424.00		2,424.00		(2,424.00)				-
5 Walnut St Bainbridge - Utilities/Insurance	(1)	1,492.58	1,208.00	1,492.58	1,208.00	(284.58)				14,500.00
On The Rail Repairs & Maintenance		-		-		-				-
Special Projects Fees Misc Exp		-		-		-				-
Bank Fees		-		-		-				100.00
Misc Expense		-		-		-				-
Depreciation Expense		-		-		-				1,303.35
<b>Total Expenditures</b>		<b>18,369.68</b>	<b>16,462.62</b>	<b>18,369.68</b>	<b>16,462.62</b>	<b>(1,907.06)</b>				<b>198,024.85</b>
<b>Net revenues over expenditures</b>		<b>135,573.57</b>	<b>135,587.53</b>	<b>135,573.57</b>	<b>135,587.53</b>	<b>(13.96)</b>				<b>47,525.30</b>
<b>Other Sources (Uses)</b>										
<b>Net Activity</b>		<b>\$ 135,573.57</b>	<b>\$ 135,587.53</b>	<b>\$ 135,573.57</b>	<b>\$ 135,587.53</b>	<b>\$ (13.96)</b>				<b>\$ 47,525.30</b>

**Note**

(1) Town of Bainbridge Taxes

**MATTHEW N. WELLS, ESQ.**  
[mwells@bsk.com](mailto:mwells@bsk.com)  
P: 315.218.8174  
F: 315.218.8100

February 8, 2023

County of Chenango Industrial Development Agency  
15 South Broad Street  
Norwich, New York 13815

Re: *County of Chenango Industrial Development Agency*  
*2023 Lease-Leaseback Transaction (NY Smyrna I, LLC Facility)*

Ladies and Gentlemen:

In response to the request of the President and Chief Executive Officer of the County of Chenango Industrial Development Agency (the "Agency"), we have reviewed the Application for Financial Assistance (the "Application") filed with the Agency by NY Smyrna I, LLC, a New York limited liability company, on behalf of itself and/or the principals of NY Smyrna I, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (collectively, the "Company").

Based on our review of the Application, we understand that the Company has requested the Agency enter into a transaction in which the Agency will assist in a project (the "Project") consisting of (a)(1) the acquisition of an interest in the Company's fee, leasehold, and easement interests in a certain parcel of land located at 471 County Road 14, Town of Smyrna, Chenango County, New York 13332 (designated as Town of Smyrna Tax Map Parcel No. 29.-1-6.1) (the "Land"); (2) the acquisition, construction, installation and equipping upon the Land of a 3 megawatt AC solar photovoltaic electricity generating facility (the "Solar Facility"), related facilities, and furniture, fixtures, machinery and equipment (collectively, the "Equipment"), all of the foregoing for use by the Company as a solar photovoltaic electric generating facility (the "Project Facility" and collectively with the Land, the Solar Facility and the Equipment, the "Project"), and (b) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including exemptions from mortgage recording taxes, sales and use taxes, and real property taxes for the Project Facility (but not including special assessments and ad valorem levies) (collectively, the "Financial Assistance").

Section 858 of the General Municipal Law of the State of New York empowers the Agency to provide financing assistance to certain industrial, manufacturing, warehousing, commercial, research and recreation facilities, whether now in existence or under construction, and to lease or sell such facilities to qualified applicants when, in the judgment of the Agency, such financial assistance will serve to promote, develop, encourage or assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of such facilities in the State of

County of Chenango Industrial Development Agency  
February 8, 2023  
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New York and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York.

As of this date under existing law, and upon full compliance with the State Environmental Quality Review Act, the Project Facility qualifies as a "Project" under the Industrial Development Agency Act, being Title 1 of Article 18-A of the General Municipal law of the State of New York, and the Agency may properly assist with the Project.

Pursuant to this Section 858(8)(b) of the General Municipal Law, we inform you that, as of the date of this letter, we are acting in the capacity of transaction counsel and agency counsel and do not represent any other parties in this transaction.

Very truly yours,

BOND, SCHOENECK & KING, PLLC



Matthew N. Wells

MNW/cma

## AGENCY PROJECT AGREEMENT

THIS AGREEMENT is made as of the \_\_\_\_ day of \_\_\_\_\_, 2023, by and between the **County of Chenango Industrial Development Agency** (“the Agency”), a public benefit corporation of the State of New York, having its offices at 15 Broad Street, Norwich, New York 13815; **NY Smyrna I, LLC** (the “Company”), a limited liability company duly formed and validly existing pursuant to the laws of the State of New York, with a business address of 140 E. 45<sup>th</sup> Street, Suite 32B-1, New York, New York 10017.

### WITNESSETH:

WHEREAS, the Agency was created by Section 914-a of the General Municipal Law of the State of New York pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York (collectively, the “Act”) as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, the Company desires the Agency’s assistance in (a)(1) the acquisition of an interest in the Company’s fee, leasehold, and easement interests in a certain parcel of land located at 471 County Road 14, Town of Smyrna, Chenango County, New York 13332 (designated as Town of Smyrna Tax Map Parcel No. 29.-1-6.1) (the “Land”), (2) the acquisition, construction, installation and equipping upon the Land of a 3 megawatt AC solar photovoltaic electricity generating facility (the “Solar Facility”), related facilities, and furniture, fixtures, machinery and equipment (collectively, the “Equipment”), all of the foregoing for use by the Company as a solar photovoltaic electric generating facility (the “Project Facility” and collectively with the Land, the Solar Facility and the Equipment, the “Project”), and (b) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including exemptions from mortgage recording taxes, sales and use taxes, and real property taxes for the Project Facility (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and

WHEREAS, by Resolution dated February 8, 2023 (the “Resolution”), the Agency authorized the Company to act as its agents for the purposes of acquiring, constructing and equipping the Project as set forth above, subject to the Company entering into this Agency Project Agreement; and

WHEREAS, the Agency approved the following financial assistance to the Company, as set forth in the Resolution: a sales tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project; and a real property tax abatement through the PILOT Agreement (defined below); and

WHEREAS, the Agency purpose to be achieved by providing the financial assistance to the Company is as follows, as set forth in the Resolution: to induce the Company to develop the Project, thereby increasing employment opportunities in Chenango County and otherwise furthering the purposes of the Agency as set forth in the Act;

NOW, THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Scope of Agency. The Company hereby agrees to limit its activities as agent for the Agency under the authority of the Resolution to acts reasonably related to the acquisition, construction and equipping of the Project. The rights of the Company to act as agents of the Agency shall expire on February \_\_\_\_, 2024, unless extended as contemplated by the Resolution.
2. The parties are contemplating that the Agency and the Company will enter into a lease agreement from the Company to the Agency (the “Lease Agreement”), a leaseback agreement from the Agency to the Company (the “Leaseback Agreement”) and payment-in-lieu-of-tax agreement (the “PILOT Agreement”) with the Company. The Company agrees not to take title to any property as agent for the Agency until the Leaseback Agreement and PILOT Agreement have been executed and delivered.
3. Representations and Covenants of the Company. The Company makes the following representations and covenants in order to induce the Agency to proceed with the Project:
  - a. The Company is a limited liability company duly formed and validly existing under the laws of the State of New York, has the authority to enter into this Agreement, and has duly authorized the execution and delivery of this Agreement.
  - b. Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the provisions of this Agreement will to the best of the Company’s knowledge conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which they are bound, or will to the best of the Company’s knowledge constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.
  - c. The Project and the operation thereof will conform materially with all applicable zoning, planning, building and environmental laws and regulations of governmental authorities having jurisdiction over the Project, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection.
  - d. There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened in writing against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company’s ability to fulfill its obligations under this Agreement.
  - e. The Company covenants that the Project will comply in all material respects with all environmental laws and regulations, and, except in material compliance with environmental laws and regulations and except as disclosed in writing pursuant to

the Phase I Environmental Site Assessment Report dated February 10, 2022: (i) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist at the Project except in compliance with all material applicable laws; (ii) that the Company will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances at the Project or onto any other property, (iii) that no asbestos will be incorporated into or disposed of at the Project; (iv) that no underground storage tanks will be located at the Project, and (v) to the best of the Company's knowledge that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence. The Company, upon receiving any information or notice contrary to the representations contained in this section, shall promptly notify the Agency in writing with full details regarding the same. The Company hereby releases the Agency from liability with respect to, and agrees to defend, indemnify, and hold harmless the Agency, its executive director, directors, members, officers, employees, agents, representatives, successors and assigns from and against any and all claims, demands, damages, costs, orders, liabilities, penalties, and expenses (including reasonable attorney's fees) related in any way to any violation of the covenants contained in this Section 3.2(e) or any materially misleading representations contained in this Section 3.2(e). In the event the Agency in its reasonable discretion deems it necessary to perform due diligence with respect to any of the above, or to have an environmental audit performed with respect to the Project, the Company agrees to pay the expenses of same to the Agency upon thirty (30) days prior written notice, and agrees that upon failure to do so, its obligation for such expenses shall be deemed to be additional rent.

- f. The Agency encourages the Company to use an open bidding process for construction contracts; to give opportunities for employment in the construction of the Project to persons residing in Chenango County, New York; and to award contracts for work in connection with the Project to eligible business concerns which are located in, or owned in substantial part by persons residing in, Chenango County, New York.
- g. The Company commits to the following investment amount: **\$10,450,000**.
- h. The Company states that the current number of jobs they provide is 0 and project that the Project will result in the creation of the following number of jobs: 0.
- i. The Company makes the following commitment regarding the use of local labor: **compliance with the Agency's Local Labor Utilization Policy**.
- j. The Company shall provide a certified statement and documentation annually, containing the following information, and such other information required by the Agency:
  - i. The number of full time equivalent ("FTE") jobs retained and/or created as a result of the financial assistance, by category, including FTE independent

contractors or employees of independent contractors that work at the project location;

- ii. That the salary and fringe benefit averages or ranges for categories of jobs retained and jobs created that were provided in the application are still accurate, and if it is not still accurate, a revised list of salary and fringe benefit averages or ranges for categories of jobs retained and/or jobs created.
  - k. In accordance with Section 875(3) of the New York General Municipal Law, the Company covenants and agrees that, if it receives New York State and sales and use tax exemption benefits (“sales and use tax exemption benefits”) from the Agency, and it is determined that: (i) the Company 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 by the Agency to be taken by the Company; (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 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, then the Company will (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 in connection therewith. The Company further understands and agrees that in the event that the Company fails to pay over such amounts to the Agency, the New York State Tax Commissioner may assess and determine New York State sales and use taxes due from the Company, together with any relevant penalties and interest due on such amounts.
  - l. The Company further covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in amount up to **\$3,725,000**, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency are estimated at approximately **\$298,000** but shall not exceed **\$325,000**.
  - m. Provided that such abatement is authorized by applicable law, the Company will receive an abatement of the mortgage recording tax, in the amount of three-quarters of one percent of the total amount of the mortgage not to exceed an exemption amount of **\$26,250**.
4. Payments in Lieu of Taxes (“PILOT” payments): The Company will make PILOT payments as set forth in the PILOT Agreement to be executed by the parties. The estimated dates when PILOT payments are to be made and the estimated amounts to be paid to each affected taxing jurisdiction, or a formula by which the amounts will be calculated, are as follows: **see Schedule A attached hereto.**
5. Suspension or discontinuance of financial assistance; return of all or part of financial assistance: The Company shall be subject to discontinuance of financial assistance and the

return of all or part of the financial assistance provided by the Agency as set forth in the Agency Recapture Policy.

6. Hold Harmless Provision. The Company hereby releases the Agency from, agrees that the Agency shall not be liable for, and agrees to indemnify, defend and hold the Agency and its executive director, directors, officers, members, employees, agents (except the Company), representatives, successors and assigns harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project or arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Project or breach by the Company of this Agreement or (ii) liability arising from or expense incurred by the Agency's financing, rehabilitating, renovation, equipping, owning and leasing of the Project, including without limitation the generality of the foregoing, all causes of action and reasonable attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to intentional wrongdoing on the part of the Agency or any other person or entity to be indemnified.
  
7. Insurance Required. Effective as of the date hereof and until the Agency consents in writing to a termination, the Company 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:
  - a. Insurance against loss or damage by fire, lightning and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Project, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by the Company or (ii) as an alternative to the above requirements (including the requirements of periodic appraisal), the Company may insure the Project under a blanket insurance policy or policies covering not only the Project but other properties as well.
  - b. Worker's Compensation insurance, disability benefits insurance, and each other form of insurance which the Agency or the Company is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company who are located at or assigned to the Project.
  - c. 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 on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability



imposed upon the Company by any applicable worker's compensation law; and a blanket excess liability policy in the amount not less than \$3,000,000, protecting the Company against any loss or liability or damage for personal injury or property damage.

8. Additional Provisions Regarding Insurance.

- a. All insurance required by Section 7(a) hereof shall name the Agency as a named insured and all other insurance required by Section 7 (except Section 7(b)) shall name the Agency as an additional insured. All insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Company 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 the Company is engaged. All policies evidencing such insurance shall provide for at least thirty (30) days' (10 days for nonpayment of premium) prior written notice of the cancellation thereof to the Company and the Agency.
- b. All such policies of insurance, or a certificate or certificates of the insurers that such insurance is in force and effect, shall be deposited with the Agency prior to the commencement of the Project. Prior to expiration of any such policy, the Company shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

9. Errors and Omissions; Compliance. In consideration for the assistance provided to the Company by the Agency, the Company agrees, if requested by Agency, to fully cooperate and execute and/or re-execute any document that should have been signed at or before the closing of the transaction described in this Agreement, or a corrected or modified version of any such documents, where the document was inadvertently not executed at or before the closing, or the version executed at or before the closing contained any typographical, clerical or mathematical error, or erroneously contained or omitted any provision that does not conform with the statutory authority and established policies of the Agency.

10. Company Acknowledgement. The Company hereby acknowledges and agrees that the foregoing Financial Assistance constitutes "public funds" unless otherwise excluded under Section 224-a(3) of the New York Labor Law, and by executing this Agreement, (i) confirms that it has received notice from the Agency pursuant to Section 224-a(8)(d) of the New York Labor Law and (ii) acknowledges its obligations pursuant to Section 224-a(8)(a) of the New York Labor Law. Other than the Financial Assistance estimates provided herein and disclosed to the Company, the Agency makes no representations or covenants with respect to the total sources of "public funds" received by the Company in connection with the Project. If and to the extent that the Company determines that it is necessary and desirable to reduce the overall amount of "public funds" to be received by the Company in connection with the Project, the Agency agrees to work cooperatively with the Company to adjust the total amount of Financial Assistance to be provided to the Company, which will include, but may not be limited to amending this Agreement and/or the PILOT

Agreement (and if the term of the PILOT Agreement is modified, the corresponding terms of the Lease Agreement and Leaseback Agreement shall be modified accordingly).

11. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but which together shall constitute a single instrument.
12. All notices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, as follows:

To the Agency: County of Chenango Industrial Development Agency  
15 Broad Street  
Norwich, New York 13815

With a copy to: Bond, Schoeneck & King, PLLC  
One Lincoln Center  
Syracuse, New York 13202  
ATTN: Kevin M. Pole, Esq.

To the Company: NY Smyrna I, LLC  
140 E. 45<sup>th</sup> Street, Suite 32B-1  
New York, New York 10017  
ATTN: Peter Dolgos

With a copy to: Law Offices of Richard W. Chun  
1225 Franklin Avenue, Suite 325  
Garden City, New York 11530  
ATTN: Richard W. Chun, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this section.

13. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein, and the parties hereby agree to submit to the personal jurisdiction of the federal or state courts located in Chenango County, New York.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF CHENANGO INDUSTRIAL    NY SMYRNA I, LLC  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
\_\_\_\_\_  
President and CEO

By: \_\_\_\_\_  
Name: Peter Dolgos  
Title: Authorized Signatory

[signature page to Agency Project Agreement]

CERTIFICATION

\_\_\_\_\_ *[Name]*, the \_\_\_\_\_ *[Title]* of NY Smyrna I, LLC hereby certifies under penalty of perjury that the Company is in substantial compliance with all local, state, and federal tax, worker protection, and environmental laws, rules, and regulations.

NY SMYRNA I, LLC

Date: \_\_\_\_\_, 2023

By: \_\_\_\_\_

Name: Peter Dolgos

Title: Authorized Signatory

**SCHEDULE A**

**Payment-in-Lieu-of-Tax (“PILOT”) Agreement abatement schedule**

*The property tax abatement schedule deviates from the IDA’s standard abatement schedule. The term of the PILOT Agreement is thirty (30) years. The PILOT Agreement is based upon anticipated capacity of 3 megawatts multiplied by an agreed upon payment of \$\_\_\_\_\_ per megawatt (AC) and at the end of each year, payments will increase by [2%].*

With respect to the portion of the assessed value of the subject premises attributable to the improvements to be constructed thereon, the following percentages of the general real property taxes which would be due in respect of the improvements to the premises (i.e., the assessed value of the improvements to the premises) but for its record ownership by the Agency (but without any reference to, or utilization of, Section 485-b of the Real Property Tax Law of the State of New York), based on a current assessment of such improvements, commencing the first tax status date following the date of execution of the PILOT Agreement (assumes PILOT execution after March 1, 2023 but prior to March 1, 2024):

<u>YEAR OF EXEMPTION</u>	<u>MW</u>	<u>\$/Mwac</u>	<u>Total</u>
1	3 MW	\$_____	\$_____
2	3 MW	\$_____	\$_____
3	3 MW	\$_____	\$_____
4	3 MW	\$_____	\$_____
5	3 MW	\$_____	\$_____
6	3 MW	\$_____	\$_____
7	3 MW	\$_____	\$_____
8	3 MW	\$_____	\$_____
9	3 MW	\$_____	\$_____
10	3 MW	\$_____	\$_____
11	3 MW	\$_____	\$_____
12	3 MW	\$_____	\$_____
13	3 MW	\$_____	\$_____
14	3 MW	\$_____	\$_____
15	3 MW	\$_____	\$_____
16	3 MW	\$_____	\$_____
17	3 MW	\$_____	\$_____
18	3 MW	\$_____	\$_____
19	3 MW	\$_____	\$_____
20	3 MW	\$_____	\$_____
21	3 MW	\$_____	\$_____
22	3 MW	\$_____	\$_____
23	3 MW	\$_____	\$_____
24	3 MW	\$_____	\$_____
25	3 MW	\$_____	\$_____
26	3 MW	\$_____	\$_____
27	3 MW	\$_____	\$_____

<u>YEAR OF EXEMPTION</u>	<u>MW</u>	<u>\$/Mwac</u>	<u>Total</u>
28	3 MW	\$_____	\$_____
29	3 MW	\$_____	\$_____
30	3 MW	\$_____	\$_____
Total			\$_____

## INDUCEMENT AGREEMENT

This INDUCEMENT AGREEMENT (the “Agreement”), dated as of the \_\_\_\_ day of February, 2023, is made between the COUNTY OF CHENANGO INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”), a public benefit corporation of the State of New York, having its offices at 15 South Broad Street, Norwich, New York 13815; NY SMYRNA I, LLC (the “Company”), a limited liability company duly formed and existing pursuant to the laws of the State of New York, having a business address at 140 E. 45<sup>th</sup> Street, Suite 32B-1, New York, New York 10017.

**Article 1. Preliminary Statement.** Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01 The Agency is authorized and empowered by the provisions of Article 18-A of the General Municipal Law of the State of New York as amended, and Chapter 580 of the Laws of 1973 of the State of New York (collectively, the “Act”) to provide financial assistance to “Projects” (as defined in the Act), to acquire facilities or properties, and to lease same to the Company upon such terms and conditions as the Agency may deem advisable.

1.02 The purposes of the Act are to promote industry and develop trade by inducing manufacturing, industrial, warehousing, research, recreation and commercial enterprises to locate or remain in the State. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to provide financial assistance, therein defined.

1.03 The Company has requested that the Agency provide financial assistance for a certain project (the “Project”), consisting of (a)(1) the acquisition of an interest in the Company’s fee, leasehold, and easement interests in a certain parcel of land located at 471 County Road 14, Town of Smyrna, Chenango County, New York 13332 (designated as Town of Smyrna Tax Map Parcel No. 29.-1-6.1) (the “Land”), (2) the acquisition, construction, installation and equipping upon the Land of a 3 megawatt AC solar photovoltaic electricity generating facility (the “Solar Facility”), related facilities, and furniture, fixtures, machinery and equipment (collectively, the “Equipment”), all of the foregoing for use by the Company as a solar photovoltaic electric generating facility (the “Project Facility” and collectively with the Land, the Solar Facility and the Equipment, the “Project”), and (b) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including exemptions from mortgage recording taxes, sales and use taxes, and real property taxes for the Project Facility (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”).

1.04 The Agency has determined that the providing of the Project Facility by the Agency and the leasing thereof by the Agency to the Company will not result in the removal of an industrial or manufacturing plant, facility or other commercial activity of the Company from one area of the State to another area of the State nor result in the abandonment of one or more commercial or manufacturing plants or facilities of the Company located within the State; and the Agency has found that, based on the Company’s 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.

1.05 The Agency has determined that the acquisition, construction and equipping of the Project Facility, as described in the application to the Agency submitted on or about November 8, 2022 (the “Application”), will promote and further the purposes of the Act.

1.06 On February 8, 2023, the Agency adopted a Resolution agreeing to undertake to assist the Company and to effectuate the purposes of the Act and, subject to the happening of all acts, conditions and things required precedent to such assistance.

1.07 In the Resolution, the Agency appointed the Company as its agents for the purposes of acquiring, constructing and equipping the Project Facility, entering into contracts and doing all things requisite and proper for completing the Project Facility.

**Article 2. Undertakings on the Part of the Agency.** Based upon the statements, representations and undertakings of the Company regarding the Project Facility and subject to the conditions set forth herein, the Agency agrees as follows:

2.01 Upon satisfactory completion of the conditions precedent set forth herein and in the Resolution and the satisfactory completion of such additional acts and reviews as the Agency may deem appropriate, the Agency will adopt, or cause to be adopted, such proceedings and authorize the execution of such documents as may be necessary or advisable for (i) the acquisition, construction and equipping of the Project Facility, and (ii) the subleasing or sale of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.02 The Agency will enter into an agreement to lease the Project Facility to the Company (the “Leaseback Agreement”). The Company shall be entitled to terminate the Leaseback Agreement pursuant to the terms as shall be prescribed in the Leaseback Agreement subject to conditions, if any, agreed upon by the Agency and the Company. The Leaseback Agreement shall contain all provisions required by law and such other provisions as shall be mutually acceptable to the Agency and the Company and, to the extent it may be applicable, the mortgage holder.

2.03 The Agency will take or cause to be taken such other acts and adopt such further proceedings as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

**Article 3. Undertakings on the Part of the Company.** Based upon the statements, representations and undertakings of the Agency herein and in the Resolution and subject to the conditions set forth herein and in the Resolution, the Company agrees as follows:

3.01 The Company hereby accepts the appointment made by the Agency in the Resolution to be the true and lawful agent of the Agency to (i) acquire, construct and equip the Project Facility and (ii) make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent of the Agency, and in general to do all things which



may be requisite or proper for completing the Project Facility, all with the same powers and the same validity as the Agency could do if acting on its own behalf.

3.02 The Company will, to the extent deemed by them to be necessary or desirable, enter into a contract or contracts for the acquisition, construction and equipping of the Project Facility (including any necessary contracts for the leasing of real property necessary or useful in said Facility), and, on the terms and conditions set forth in a certain lease agreement between the Company and the Agency (the "Lease Agreement") and the Leaseback Agreement, the Company will lease the Project Facility to the Agency.

3.03 Contemporaneously with the lease of the Project Facility to the Agency, the Company will enter into the Leaseback Agreement with the Agency containing, among other things, the terms and conditions described in Section 2.02 hereof and such other financing agreements, indentures, guaranties, and related agreements as shall be necessary or appropriate so that the Company will be obligated to pay to or for the account of the Agency sums sufficient to pay the amounts due and owing pursuant thereto.

3.04 (a) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove (or bond the same if acceptable to the Agency and its counsel), any mechanics' or other liens against the Project Facility for labor or materials furnished in connection with the acquisition, construction and equipping of the Project Facility. The Company shall forever defend, indemnify and hold the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, harmless from and against any costs, losses, expenses, claims, damages and liabilities of whatever kind or nature arising, directly or indirectly, out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition, construction and equipping of the Project Facility or arising out of any contract or other arrangement therefor (and including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing), whether such claims or liabilities arise as a result of the Company acting as agent for the Agency pursuant to this Agreement or otherwise. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency, or any of its respective members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability, except that such indemnities will not be applicable with respect to intentional wrongdoing on the part of the Agency or any other person or entity to be indemnified, or actions of the persons to be indemnified that are outside of the scope of their duties on behalf of the Agency.

(b) The Company shall forever defend, indemnify and hold harmless the Agency, its members, officers, employees and agents, and anyone for whose acts or omissions the Agency or any of them may be liable, from and against all claims, causes of action, liabilities and expenses howsoever arising for loss or damage to property or any injury to or death of any person (including, without limitation, death of or injury to any employee of the Company) that may occur subsequent to the date hereof by any cause whatsoever in relation to the Project Facility, including the failure to comply with the provisions of Article 3.04 hereof, or arising, directly or indirectly, out of the ownership, construction, acquisition, operation, maintenance, repair or financing of the Project Facility, and including, without limitation, any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(c) The defense and indemnities provided for in this Article 3 shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them together the Agency's "affiliates", or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(d) The Company shall provide and carry worker's compensation and disability insurance as required by the Leaseback Agreement.

3.05 The Company agrees that, as agent for the Agency or otherwise, it will comply with all the requirements of all federal, state and local laws, rules and regulations of whatsoever kind and howsoever denominated applicable to the Agency and/or the Company solely with respect to the Project Facility, the acquisition, construction and equipping thereof, and the operation and maintenance of the Project Facility. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.06 The Company agrees that, as agent for the Agency or otherwise, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute) they will comply with the requirements of Section 220 of the Labor Law of the State of New York, as amended.

3.07 The Company agrees that, as agent for the Agency and for all other purposes, they shall annually file a statement with the New York State Department of Taxation and Finance, on a form and in such manner as prescribed by the Commissioner of Taxation and Finance, as to the value of all sales and use exemptions claimed by the Company or their agents, including, but not limited to, operators of the Project Facility and consultants or subcontractors of the Company, under the authority granted pursuant to Section 874(8) of the General Municipal Law. The penalty for failure to file such statement shall include, without limitation, removal by the Agency of the Company's authority to act as agents of the Agency.

3.08 The Company will take such further action and adopt such further proceedings as may be required to implement their aforesaid undertakings or as they may deem appropriate in pursuance thereof.

3.09 The Company agrees to cooperate with the Agency to (1) ensure compliance with section 858-b of the General Municipal Law, and (2) prepare reports required to be prepared by the Agency pursuant to section 859 of the General Municipal Law.

3.10 If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the

same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.11 The Company hereby acknowledges and agrees that the Agency's Financial Assistance constitutes "public funds" unless otherwise excluded under Section 224-a(3) of the New York Labor Law, and by executing this Agreement, (i) confirms that it has received notice from the Agency pursuant to Section 224-a(8)(d) of the New York Labor Law and (ii) acknowledges its obligations pursuant to Section 224-a(8)(a) of the New York Labor Law. Other than the Financial Assistance estimates provided herein and disclosed to the Company, the Agency makes no representations or covenants with respect to the total sources of "public funds" received by the Company in connection with the Project. If and to the extent that the Company determines that it is necessary and desirable to reduce the overall amount of "public funds" to be received by the Company in connection with the Project, the Agency agrees to work cooperatively with the Company to adjust the total amount of Financial Assistance to be provided to the Company, which will include, but may not be limited to amending this Agreement and/or the PILOT Agreement (and if the term of the PILOT Agreement is modified, the corresponding terms of the Lease Agreement and Leaseback Agreement shall be modified accordingly).

#### **Article 4. General Provisions.**

4.01 This Agreement shall take effect as of the date of execution hereof by the Agency and the Company and shall remain in effect until the Lease Agreement and Leaseback Agreement becomes effective. It is the intent of the Agency and the Company that this Agreement be superseded in its entirety by the Lease Agreement and Leaseback Agreement, except for the indemnities contained herein, which shall survive.

4.02 It is understood and agreed by the Agency and the Company that the execution of the Leaseback Agreement and related documents are subject to (i) obtaining all necessary governmental approvals, (ii) approval of the Company, (iii) approval by the members of the Agency, (iv) determination of the environmental impact of the Project Facility by the Agency and compliance with the State Environmental Quality Review Act, (v) agreement between the Agency, the Company, and any mortgagee or other financial institution or agency involved with the financing of the construction of the building of the Project Facility of mutually acceptable terms and conditions for the Leaseback Agreement and other documentation required in this transaction, (vi) the condition that there is no change in New York State Law which prohibits or limits the Agency from fulfilling its obligations and commitment as herein set forth, and (vii) payment by the Company of the Agency's fee and expenses.

4.03 The Company agrees that they will reimburse the Agency for all reasonable and necessary direct out-of-pocket expenses which the Agency may incur as a consequence of the execution of this Agreement or performing its obligations hereunder.

4.04 The Company agrees to execute with the Agency a payment-in-lieu-of tax agreement in accordance with the request of the Company submitted to the Agency and agreed to by the Agency in the Resolution and a certain Agent Agreement between the Agency and the Company executed in connection therewith.

4.05 If for any reason the Leaseback Agreement is not executed and delivered on or before twelve (12) months from the date hereof, the provisions of this Agreement (other than the provisions of Articles 3.04, 3.05, 3.06, 3.07 and 3.09 above, which shall survive) shall, unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) the Company shall pay the Agency for all expenses which were authorized by the Company and incurred by the Agency in connection with the acquisition, construction and equipping of the Project Facility;

(b) the Company shall assume and be responsible for any contracts for construction or purchase of the equipment entered into by the Agency at the request of or as agent of the Company in connection with the Project Facility; and

(c) the Company will pay the direct out-of-pocket expenses of members of the Agency, and counsel for the Agency incurred in connection with the Project Facility and will pay the reasonable fees of counsel for the Agency for legal services relating to the Project Facility and the proposed construction thereof.

4.06 The Company agrees to be bound by the terms of the County of Chenango Industrial Development Agency Recapture Policy incorporated herein by reference.

[signature page follows]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the \_\_\_\_ day of February, 2023.

COUNTY OF CHENANGO INDUSTRIAL NY SMYRNA I, LLC  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: President & CEO

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of whom the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

[signature page to Inducement Agreement]

**Inducement Resolution  
NY Smyrna I, LLC Facility**

RESOLUTION OF THE COUNTY OF CHENANGO  
INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL  
ACTION TOWARD APPOINTING NY SMYRNA I, LLC AS  
AGENT OF THE AGENCY IN CONNECTION WITH A  
LEASE-LEASEBACK TRANSACTION AND MAKING  
CERTAIN FINDINGS AND DETERMINATIONS WITH  
RESPECT TO THE PROJECT.

WHEREAS, NY Smyrna I, LLC on behalf of itself and/or the principals of NY Smyrna I, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (the “Company”) has applied to the County of Chenango Industrial Development Agency (the “Agency”) to enter into a transaction in which the Agency will assist in (a)(1) the acquisition of an interest in the Company’s fee, leasehold, and easement interests in a certain parcel of land located at 471 County Road 14, Town of Smyrna, Chenango County, New York 13332 (designated as Town of Smyrna Tax Map Parcel No. 29.-1-6.1) (the “Land”), (2) the acquisition, construction, installation and equipping upon the Land of a 3 megawatt AC solar photovoltaic electricity generating facility (the “Solar Facility”), related facilities, and furniture, fixtures, machinery and equipment (collectively, the “Equipment”), all of the foregoing for use by the Company as a solar photovoltaic electric generating facility (the “Project Facility” and collectively with the Land, the Solar Facility and the Equipment, the “Project”), and (b) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including exemptions from mortgage recording taxes, sales and use taxes, and real property taxes for the Project Facility (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”); and

WHEREAS, the Company will lease the Project Facility to the Agency, pursuant to Article 18-A of the General Municipal Law of the State of New York and Chapter 580 of the Laws of 1973 of the State of New York, as may be amended from time to time (collectively, the “Act”) and the Agency will lease the Project Facility back to the Company pursuant to a Leaseback Agreement; and

WHEREAS, the Act authorizes and empowers the Agency to promote, develop, encourage and assist projects such as the Project Facility and to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Agency contemplates that it will provide financial assistance to the Company in the form of exemptions from sales and use taxes on materials and/or equipment used or incorporated in the Project Facility, exemptions from mortgage recording taxes and abatement of real property taxes for thirty (30) years on the assessed value of the Project Facility, which financial assistance is a deviation from the Agency’s Uniform Tax Exemption Policy, to be more particularly described in a Final Authorizing Resolution to be adopted by the Agency prior to the closing of the transactions described herein; and

WHEREAS, based upon representations made by the Company, the value of the sales tax exemptions is estimated at approximately \$298,000 but shall not exceed \$325,000; and

WHEREAS, based upon representations made by the Company, the value of the mortgage recording tax exemptions is estimated at \$23,250 but shall not exceed \$26,250; and

WHEREAS, prior to granting of any tax benefits, public notice of the public hearing relating to the Project was given as required by law, a copy of which (together with proof of publication) is annexed hereto as **Exhibit A**, and such notice complied with all requirements of the Act; and

WHEREAS, a public hearing was hereby authorized to be scheduled and will be held to hear all persons interested in the granting of any tax benefits and the location and nature of the Project, and any other financial assistance contemplated, the minutes of which are annexed hereto as **Exhibit B**; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the “SEQR Act”) and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the “Regulations” and, together with the SEQR Act, “SEQRA”), the Agency constitutes a “State Agency” and it must therefore 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 SEQRA, to aid the Agency in determining whether the Project may have a significant adverse impact upon the environment, the Applicant submitted to the Agency: (1) Applicant’s Application for Incentives/Benefits dated November 8, 2022, including an environmental assessment form (“EAF”) relative to the acquisition, construction and equipping of the Project Facility; (2) Phase I Environmental Site Assessment dated February 10, 2022; and (3) other supporting documentation, including resolutions of the Agency adopted July 20, 2022 (declaring itself “Lead Agency”) and October 19, 2022 (issuing a Negative Declaration) (collectively the “Project Environmental Documents”); and

WHEREAS, the Agency served as Lead Agency (as defined in SEQRA) for purposes of conducting a coordinated review of the environmental impacts of the Project, all in accordance with SEQRA; and

WHEREAS, based on the Agency’s review of the Project Environmental Documents, the provision of financial assistance to the Project appears to constitute a “Type I Action” (as said quoted term is defined in the Regulations); and

WHEREAS, by resolution adopted October 19, 2022 (the “SEQRA Resolution”), a copy of which is attached to this resolution, the Agency determined to issue a written findings statement regarding the relevant environmental impacts, facts and conclusions in accordance with the requirements of Section 617.7 of the Regulations; and

WHEREAS, the Agency issued a Negative Declaration under SEQRA (the “Negative Declaration”), a copy of which is attached to this Resolution, wherein the Agency concluded

with respect to the Project that: (1) the requirements of 6 NYCRR Part 617 have been met; and (2) there will be no significant adverse impacts on the environment and that an environmental impact statement need not be prepared; and

WHEREAS, the Agency desires to confirm and ratify its determination that the acquisition, construction and equipping of the Project Facility will not have a significant adverse impact on the environment and the Agency will not require the preparation of an environmental impact statement with respect to the Project Facility; and

WHEREAS, the Agency has given due consideration to the application of the Company and to representations by the Company that the proposed lease-leaseback transaction, is either an inducement to the Company to acquire, construct, maintain and expand the Project Facility in the County or is necessary to maintain the competitive position of the Company in its industry.

NOW, THEREFORE, BE IT RESOLVED by the County of Chenango Industrial Development Agency (a majority of the members thereof affirmatively concurring) that:

- Section 1.
- (a) The acquisition, construction and equipping of the Project Facility will not have a significant adverse impact on the environment and the Agency will not require the preparation of an environmental impact statement with respect to the Project Facility.
  - (b) The construction, acquisition and equipping of the Project Facility and the Agency's financial assistance therefor, will promote job opportunities, health, general prosperity and the economic welfare of the inhabitants of the County and the people of the State of New York and improve their standard of living, and thereby serve the public purposes of the Act and the same is, therefore, approved.
  - (c) It is desirable and in the public interest for the Agency to enter into a lease-leaseback transaction, for the purpose of providing financial assistance for the construction, acquisition and equipping of the Project Facility, as reflected in the Company's application to the Agency and as amended from time to time prior to the closing of the lease-leaseback transaction.

Section 2. The Agency shall assist the Company in its construction, acquisition and equipping of the Project Facility and will provide financial assistance with respect thereto, including potential exemptions from sales and use taxes, mortgage recording taxes and real property tax abatements.

Section 3. The form and substance of a proposed agency agreement and a proposed inducement agreement (in substantially the forms presented to this meeting) each by and among the Agency and the Company setting forth the undertakings of the Agency and the Company with respect to the construction, acquisition and the equipping of the Project Facility (the "Agreements") are each hereby approved. The Chairman or Vice



Chairman of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Agreements, with such changes in terms and form as the Chairman or Vice Chairman shall approve. The execution thereof by the Chairman or Vice Chairman shall constitute conclusive evidence of such approval.

Section 4. The Company is herewith and hereby appointed the agent of Agency to construct, acquire and equip the Project Facility. The Company is hereby empowered to delegate its status as agent of the Agency to agents, subagents, contractors, subcontractors, materialmen, suppliers, vendors and such other parties as the Company may choose in order to equip the Project Facility. The terms and conditions for the appointment of the Company as agent of the Agency for the purposes described in this resolution are set forth in the form of the attached letter addressed to the Company, marked as **Exhibit C** to this resolution. The form of such letter is incorporated herein by reference and is approved and adopted by the Agency, and the Chairman, Vice Chairman or President & CEO of the Agency or any other duly authorized official of the Agency are authorized to execute and deliver such letter to the Company. The Agency hereby appoints the agents, subagents, contractors, subcontractors, materialmen, vendors and suppliers of the Company as agents of the Agency solely for purposes of making sales or leases of goods, services, and supplies to the Project Facility, and any such transaction between any agent, subagent, contractor, subcontractor, materialmen, vendor or supplier, and the Company, as agent of the Agency shall be deemed to be on behalf of the Agency and for the benefit of the Project Facility. The Company shall indemnify the Agency with respect to any transaction of any kind between and among the agents, subagents, contractors, subcontractors, materialmen, vendors and/or suppliers and the Company, as agent of the Agency.

Section 5. The law firm of Bond, Schoeneck & King, PLLC is appointed Transaction Counsel in connection with the lease-leaseback transaction.

Section 6. Counsel to the Agency and Transaction Counsel are hereby authorized to work with counsel to the Company and others to prepare, for submission to the Agency, all documents necessary to effect the lease-leaseback transaction.

Section 7. The Chairman, Vice Chairman or President & CEO of the Agency 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 8. This resolution shall take effect immediately.

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

I, the undersigned Secretary of the County of Chenango Industrial Development Agency  
DO HEREBY CERTIFY THAT:

I have compared the foregoing copy of a resolution of the County of Chenango Industrial  
Development Agency (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.

Such resolution was passed at a meeting of the Agency duly convened in public session  
on February \_\_\_\_, 2023 at 8:00 a.m., local time, at Norwich, New York which the following  
members were:

Members Present:

Staff Present:

Others Present:

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

Voting Aye

Voting Nay

and, therefore, the resolution was declared duly adopted.

The Application is in substantially the form presented to and approved at such meeting.

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 this \_\_\_\_ day of February, 2023.

---

Secretary

EXHIBIT A

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NOTICE OF PUBLIC HEARING

---

NOTICE IS HEREBY GIVEN that a public hearing pursuant to Title 1 of Article 18-A of the New York State General Municipal Law will be held by the County of Chenango Industrial Development Agency (the “IDA”) on the \_\_\_\_ day of February, 2023 at 6:00 p.m. local time, at \_\_\_\_\_, Smyrna, New York in connection with the following matters:

NY Smyrna I, LLC on behalf of itself and/or the principals of NY Smyrna I, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (the “Company”) has applied to the County of Chenango Industrial Development Agency (the “Agency”) to enter into a transaction in which the Agency will assist in (a)(1) the acquisition of an interest in the Company’s fee, leasehold, and easement interests in a certain parcel of land located at 471 County Road 14, Town of Smyrna, Chenango County, New York 13332 (designated as Town of Smyrna Tax Map Parcel No. 29.-1-6.1) (the “Land”), (2) the acquisition, construction, installation and equipping upon the Land of a 3 megawatt AC solar photovoltaic electricity generating facility (the “Solar Facility”), related facilities, and furniture, fixtures, machinery and equipment (collectively, the “Equipment”), all of the foregoing for use by the Company as a solar photovoltaic electric generating facility (the “Project Facility” and collectively with the Land, the Solar Facility and the Equipment, the “Project”), and (b) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including exemptions from mortgage recording taxes, sales and use taxes, and real property taxes for the Project Facility (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”).

The IDA contemplates providing financial assistance to the Company with respect to the Project in the form of exemptions from sales and use taxes on materials and/or equipment used or incorporated in the Project Facility, potential exemptions from mortgage recording taxes and abatement of real property taxes for thirty (30) years on the assessed value of the Project Facility, which financial assistance is a deviation from the Agency’s Uniform Tax Exemption Policy.

In accordance with §875(3) of the New York General Municipal Law, and if the Company’s application is approved, any New York State and local sales and use tax exemption claimed by the Company and approved by the Agency in connection with the above-described project may be subject to recapture by the Agency under the terms and conditions set forth in §875(3) and as will be set forth in the Agent Agreement to be entered into by and between the Agency and the Company.

The proposed exemption from state and local sales and use tax is expected to exceed \$100,000. The proposed PILOT Agreement deviates from the standard property tax abatement schedule of the IDA.

A representative of the IDA will, at the above-stated time and place, hear all persons with views in favor of or opposed to either the location or nature of the Project, or the proposed financial assistance being contemplated by the IDA. In addition, at, or prior to, such hearing, interested parties may submit to the IDA written materials pertaining to such matters. Any such written materials should be submitted to the offices of the IDA located at 15 South Broad Street, Norwich, New York 13815.

A report of the hearing will be made available to the County of Chenango Industrial Development Agency Board of Directors. Approval of the financing by the IDA through its Board of Directors is necessary.

The application for financial assistance filed by the Company with the IDA, including an analysis of the costs and benefits of the proposed Project, is available for public inspection at the offices of the IDA located at 15 South Broad Street, Norwich, New York 13815.

You are welcome to view the meeting via the Chenango IDA Youtube channel (\_\_\_\_\_) and the meeting will be streamed live.

Dated: \_\_\_\_\_, 2023

COUNTY OF CHENANGO INDUSTRIAL  
DEVELOPMENT AGENCY

\_\_\_\_\_  
By:  
Title: (Vice) Chairman

EXHIBIT B

MINUTES OF PUBLIC HEARING  
ON FEBRUARY \_\_\_\_, 2023

County of Chenango Industrial Development Agency  
(NY Smyrna I, LLC Project)

1. \_\_\_\_\_, (Vice) Chairman of the County of Chenango Industrial Development Agency (the “IDA”), called the hearing to order.
2. The (Vice) Chairman then appointed \_\_\_\_\_, Secretary of the IDA, to record the minutes of the hearing.
3. The (Vice) Chairman then described the proposed location and nature of the Project for which financial assistance is being contemplated as follows:

The IDA proposes to assist in (a)(1) the acquisition of an interest in the Company’s fee, leasehold, and easement interests in a certain parcel of land located at 471 County Road 14, Town of Smyrna, Chenango County, New York 13332 (designated as Town of Smyrna Tax Map Parcel No. 29.-1-6.1) (the “Land”), (2) the acquisition, construction, installation and equipping upon the Land of a 3 megawatt AC solar photovoltaic electricity generating facility (the “Solar Facility”), related facilities, and furniture, fixtures, machinery and equipment (collectively, the “Equipment”), all of the foregoing for use by the Company as a solar photovoltaic electric generating facility (the “Project Facility” and collectively with the Land, the Solar Facility and the Equipment, the “Project”), and (b) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including exemptions from mortgage recording taxes, sales and use taxes, and real property taxes for the Project Facility (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”).

4. The (Vice) Chairman then opened up the hearing for comments from the floor for or against the proposed financial assistance being contemplated and the location and nature of the Project. The following is a listing of the persons heard and a summary of their views:
5. The (Vice) Chairman then asked if there were any further comments, and, there being none, the hearing was closed at \_\_\_\_\_.

\_\_\_\_\_  
Secretary

EXHIBIT C

(To be copied onto IDA letterhead and delivered  
to the Company, when appropriate.)

\_\_\_\_\_, 2023

NY Smyrna I, LLC  
140 E. 45<sup>th</sup> Street; Suite 32B-1  
New York, New York 10017

RE: *County of Chenango Industrial Development Agency  
2023 Lease-Leaseback Transaction (NY Smyrna I, LLC Facility)*

Ladies and Gentlemen:

Pursuant to a resolution duly adopted on February \_\_\_\_, 2023, County of Chenango Industrial Development Agency (the “Agency”) appointed NY Smyrna I, LLC on behalf of itself and/or the principals of NY Smyrna I, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (the “Company”) as an agent of the Agency in connection with a transaction in which the Agency will assist in (a)(1) the acquisition of an interest in the Company’s fee, leasehold, and easement interests in a certain parcel of land located at 471 County Road 14, Town of Smyrna, Chenango County, New York 13332 (designated as Town of Smyrna Tax Map Parcel No. 29.-1-6.1) (the “Land”), (2) the acquisition, construction, installation and equipping upon the Land of a 3 megawatt AC solar photovoltaic electricity generating facility (the “Solar Facility”), related facilities, and furniture, fixtures, machinery and equipment (collectively, the “Equipment”), all of the foregoing for use by the Company as a solar photovoltaic electric generating facility (the “Project Facility” and collectively with the Land, the Solar Facility and the Equipment, the “Project”), and (b) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including exemptions from mortgage recording taxes, sales and use taxes, and real property taxes for the Project Facility (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”).

This appointment includes authority to purchase on behalf of the Agency all materials to be incorporated into and made an integral part of the Project Facility, and the following activities as they relate to any equipping of the Project Facility, whether or not any materials, equipment or supplies described below are incorporated into or become an integral part of such Project Facility: (i) all purchases, leases, rentals and other uses of tools, machinery and equipment in connection with acquiring and equipping (ii) all purchases, rentals, uses or consumption of supplies, materials and services of every kind and description used in connection with acquiring and equipping and (iii) all purchases, leases, rentals and uses of



equipment, machinery, and other tangible personal property (including installation costs), installed or placed in, upon or under such Project Facility, including all repairs and replacements of such property.

The agency appointment includes the power to delegate such agency appointment, in whole or in part, to agents, subagents, contractors, subcontractors, materialmen, suppliers and vendors of the Company and to such other parties as the Company chooses so long as they are engaged, directly or indirectly, in the activities hereinbefore described.

In exercising this agency appointment, you and each of your properly appointed agents and subagents must claim the sales tax exemption for all purchases by giving your vendors New York State Form ST-123. The supplier or vendor should identify the Project Facility on each bill or invoice as the **“NY Smyrna I, LLC Facility”** and indicate thereon that the Company, its agents, subagents, contractors and subcontractors acted as agent for the Agency in making the purchase.

You and each of your agents, subagents, contractors and/or subcontractors claiming a sales tax exemption in connection with the Project Facility must complete a New York State Department of Taxation and Finance Form ST-60. Original copies of each completed Form ST-60 must be delivered to the Agency within five (5) days of the appointment of each of your agents, subagents, contractors or subcontractors. Any agent, subagent, contractor or subcontractors of the Company which delivers completed Form ST-60 to the Agency will be deemed to be the agent, subagent, contractor or subcontractor of the Agency for purposes of constructing and equipping the Project Facility, and shall only then be authorized to use Form ST-123 as described above. Failure to comply with these requirements may result in loss of sales tax exemptions for the Project Facility.

It is important to note that contractors and subcontractors who have not been appointed subagent cannot use the sales tax exemption for equipment rental, tools, supplies and other items that do not become part of the finished project. Contractors and subcontractors must be appointed as agent or sub-agent of the Agency to use the Agency sales tax exemption for these purchases. Contractors and subcontractors who have not been appointed a subagent must claim the sales tax exemption for construction materials by giving their vendors a completed “Contractor Exempt Purchase Certificate” (Form ST-120.1) checking box (a).

The aforesaid appointment of the Company as agent of the Agency to acquire and equip the Project Facility shall expire at the earlier of (a) the completion of such activities and improvements, or (b) February \_\_\_\_, 2024, provided, however, such appointment may be extended at the discretion of the Agency, upon the written request of the Company if such activities and improvements are not completed by such time, and further provided that the Agency shall not unreasonably withhold its consent to the extension of such appointment.

You should be aware that the New York State General Municipal Law requires you to file an Annual Statement (Form ST-340) with the New York State Department of Taxation and Finance regarding the value of sales tax exemptions you, your agents, consultants or subcontractors have claimed pursuant to the authority we have conferred on you with respect

to this Project. The penalty for failure to file such statement shall include, without limitation, the removal of your authority to act as an agent.

If, for some reason, this transaction never closes, you will be liable for payment of the sales tax, if applicable and you are not otherwise exempt, on all materials purchased.

Please sign and return a copy of this letter for our files.

Very truly yours,

COUNTY OF CHENANGO INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Name:  
Title:

ACCEPTED & AGREED:

NY SMYRNA I, LLC

By: \_\_\_\_\_  
Name:  
Title:

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## NOTICE OF PUBLIC HEARING

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NOTICE IS HEREBY GIVEN that a public hearing pursuant to Title 1 of Article 18-A of the New York State General Municipal Law will be held by the County of Chenango Industrial Development Agency (the “IDA”) on the \_\_\_\_ day of February, 2023 at 6:00 p.m. local time, at \_\_\_\_\_, Smyrna, New York in connection with the following matters:

NY Smyrna I, LLC on behalf of itself and/or the principals of NY Smyrna I, LLC and/or an entity formed or to be formed on behalf of any of the foregoing (the “Company”) has applied to the County of Chenango Industrial Development Agency (the “Agency”) to enter into a transaction in which the Agency will assist in (a)(1) the acquisition of an interest in the Company’s fee, leasehold, and easement interests in a certain parcel of land located at 471 County Road 14, Town of Smyrna, Chenango County, New York 13332 (designated as Town of Smyrna Tax Map Parcel No. 29.-1-6.1) (the “Land”), (2) the acquisition, construction, installation and equipping upon the Land of a 3 megawatt AC solar photovoltaic electricity generating facility (the “Solar Facility”), related facilities, and furniture, fixtures, machinery and equipment (collectively, the “Equipment”), all of the foregoing for use by the Company as a solar photovoltaic electric generating facility (the “Project Facility” and collectively with the Land, the Solar Facility and the Equipment, the “Project”), and (b) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing, including exemptions from mortgage recording taxes, sales and use taxes, and real property taxes for the Project Facility (but not including special assessments and ad valorem levies) (collectively, the “Financial Assistance”).

The IDA contemplates providing financial assistance to the Company with respect to the Project in the form of exemptions from sales and use taxes on materials and/or equipment used or incorporated in the Project Facility, potential exemptions from mortgage recording taxes and abatement of real property taxes for thirty (30) years on the assessed value of the Project Facility, which financial assistance is a deviation from the Agency’s Uniform Tax Exemption Policy.

In accordance with §875(3) of the New York General Municipal Law, and if the Company’s application is approved, any New York State and local sales and use tax exemption claimed by the Company and approved by the Agency in connection with the above-described project may be subject to recapture by the Agency under the terms and conditions set forth in §875(3) and as will be set forth in the Agent Agreement to be entered into by and between the Agency and the Company.

The proposed exemption from state and local sales and use tax is expected to exceed \$100,000. The proposed PILOT Agreement deviates from the standard property tax abatement schedule of the IDA.

A representative of the IDA will, at the above-stated time and place, hear all persons with views in favor of or opposed to either the location or nature of the Project, or the proposed financial assistance being contemplated by the IDA. In addition, at, or prior to, such hearing, interested

parties may submit to the IDA written materials pertaining to such matters. Any such written materials should be submitted to the offices of the IDA located at 15 South Broad Street, Norwich, New York 13815.

A report of the hearing will be made available to the County of Chenango Industrial Development Agency Board of Directors. Approval of the financing by the IDA through its Board of Directors is necessary.

The application for financial assistance filed by the Company with the IDA, including an analysis of the costs and benefits of the proposed Project, is available for public inspection at the offices of the IDA located at 15 South Broad Street, Norwich, New York 13815.

You are welcome to view the meeting via the Chenango IDA Youtube channel ( ) and the meeting will be streamed live.

Dated: \_\_\_\_\_, 2023

COUNTY OF CHENANGO INDUSTRIAL  
DEVELOPMENT AGENCY

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By:  
Title: (Vice) Chairman



## COUNTY OF CHENANGO INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY

Pursuant to and in compliance with §874 of the General Municipal Law of the State of New York, as amended by Chapter 356, §17 of the 1993 Sessions Laws, the County of Chenango Industrial Development Agency does hereby adopt the following policy to be known as “UNIFORM TAX EXEMPTION POLICY”.

### I

#### APPLICABILITY

This policy shall be applicable to all grants of financial assistance by the Agency pursuant to §859-a of the General Municipal Law to project applicants. The term “financial assistance” as used herein shall mean real property tax exemptions, mortgage tax exemptions and sales or use tax exemptions authorized pursuant to §874 of the General Municipal Law and §412-a of the Real Property Tax Law, as existing and as amended in the future from time to time.

### II

#### TYPES OF PROJECTS

This policy shall be applicable to any proposed project which the Agency is authorized by law to undertake and shall be applicable to all property, both real and personal, acquired by the Agency or under its jurisdiction, control, or supervision. Examples of eligible projects include industrial projects (i.e., warehouse, wholesale/distribution, office, infrastructure, commercial/retail, hotel, clean renewable energy etc. and any other project permitted under applicable law).

### III

#### GUIDELINES

In determining whether a project applicant shall be granted an exemption from real property taxes, mortgage recording taxes and sales or use taxes, the Agency shall consider the following factors:

- a. The extent to which a project will create or retain permanent, private sector jobs in Chenango County.
- b. The estimated value of any tax exemptions to be provided.
- c. Whether affected tax jurisdictions shall be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided.
- d. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity of the proposed project.
- e. The amount of the private sector investment generated or likely to be generated by the proposed project.
- f. The demonstrated public support for the proposed project.
- g. The likelihood of accomplishing the proposed project in a timely fashion.
- h. The effect of the proposed project on the environment.
- i. The extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational transportation, police, emergency medical or fire services.

- j. The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts.

#### IV

##### EXTENT OF EXEMPTION

After due consideration of the aforesaid guidelines, the Agency shall determine to grant no exemption, a total exemption or a partial exemption from one or more of the aforesaid taxes. When the Agency determines to grant a total exemption, it shall so notify the chief executive official of each affected tax jurisdiction within 15 days of the making of the determination. When the Agency determines to grant a partial exemption from one or more of the aforesaid taxes, it shall require the project applicant to enter into a payment in lieu of tax agreement (PILOT) with each of the affected tax jurisdictions. The term "affected tax jurisdiction" as used herein, shall mean any municipality or school district in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax-exempt status of the Agency involved in the project.

#### V

##### PILOT AGREEMENT

When the Agency requires a PILOT agreement, the Agency shall determine whether said agreement shall be negotiated by the Agency on behalf of a project applicant or by the project applicant itself.

(1) The following guidelines shall govern the form and substance of a PILOT agreement:

- a. Each PILOT agreement shall be in writing and signed by a duly authorized official of the affected tax jurisdiction and the party agreeing to make payments in lieu of taxes.

- b. The PILOT agreement, in addition to such other terms as the parties may agree, shall state:

- i. The type of taxes for which payments in lieu thereof are to be made;

- ii. The percentage of exemption;

- iii. The period of the exemption;

- iv. The amount due annually to each affected tax jurisdiction or a formula by which the amount due can be calculated:

- v. The procedure for the making of the payments in lieu of taxes and the procedure for remitting the payment to each affected tax jurisdiction, together with the name and address of the person, office or agency to which payment shall be delivered. Payments in lieu of taxes received by the Agency shall be remitted to each affected tax jurisdiction within thirty days of receipt.

- vi. The date on which payment shall be made and the date on which payment shall be considered delinquent and subject to penalty and interest if not paid. Payments in lieu of taxes which are delinquent or not remitted shall be subject to a late payment penalty of five percent of the amount due which shall be paid by the project occupant (where taxes are delinquent because of the occupant's failure to remit to the affected tax jurisdiction at the time the payment in lieu of taxes is paid). For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest shall accrue to and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent per month until the payment is made.

(2) Unless otherwise agreed by the affected tax jurisdictions, the agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to agency involvement in the project.

(3) The Agency shall submit to the assessor of the affected tax jurisdiction on or before the taxable status date an application for exemption on form EA-412-a with a copy of the PILOT agreement attached thereto.

(4) The Agency shall mail a copy of the PILOT agreement and a copy of the form EA-412-a to the chief elected official of each school district, city, county, town and village within which the project is located within 15 days of signing or before the taxable status date for the year for which the exemption is first claimed, whichever is sooner.

(5) The term "payment in lieu of taxes" as used herein, shall mean any payment made to the Agency, or affected tax jurisdiction equal to the amount, or a portion of, real property taxes, or other taxes, which would have been levied by or on behalf of an affected tax jurisdiction if the project was not exempt by reason of Agency involvement.

(6) Administrative Fee. In those instances where a PILOT agreement requires the project applicant to remit its payments in lieu of taxes to the Agency, an administrative fee may be charged the project applicant by the Agency. The amount of such fee shall be as mutually agreed by the Agency and the payment applicant.

## VI

### DEVIATION FROM POLICY

It is the intent of the Agency to adhere to these guidelines in all cases. However, in recognition of the possibility that special circumstances may arise requiring a deviation from this policy, a project applicant may make a request to be granted an exemption from one or more provision of this policy. Such a request shall be in writing to the Agency and the applicant shall set forth in specific language the provisions from which the applicant is seeking a deviation and the specific reasons, therefore. The Agency shall require the applicant to furnish such data and information as it deems necessary to enable the Agency to determine whether the requested deviation should be granted or denied.

The Agency shall set forth in writing the reasons for a deviation from this policy and shall notify the affected taxing jurisdictions of the deviation from policy and the reasons, therefore.

## VII

### REAL PROPERTY APPRAISALS

Since the policy of the agency is to base the value of a Project for payment in lieu of tax purposes on a valuation of such Project performed by the local Assessor, normally a separate real property appraisal is not required. However, the Agency may require the submission of a real property appraisal if,

- i. The Assessor of any particular Affected Tax Jurisdiction requires one, or
- ii. If the valuation of the project for payment in lieu of tax purposes is based on a value determined by the Project Operator, rather than by an Assessor for a Taxing Jurisdiction or by the Agency.

If the Agency requires the submission of a real property appraisal, such appraisal shall be prepared by an independent MAI certified appraiser acceptable to the Agency.

The Project Operator shall be responsible for paying for the cost of hiring said appraiser.

**VIII**  
**REAL PROPERTY TAX ABATEMENT SCHEDULE**

The following two schedules will be the standard utilized for real property tax abatements. Targeted industries, manufacturing companies and other high priority projects will follow Schedule A. Commercial/Retail/Office/Community Facilities/Not-for-Profits will follow Schedule B.

**Schedule A. Targeted Industries/Manufacturing**

Year	Exempt
1	95%
2	85%
3	75%
4	65%
5	55%
6	45%
7	35%
8	25%
9	15%
10	5%

*This would result in a fifty (50%) percent total exemption during the 10-year period.*

**Schedule B. Commercial/Retail/Office/Community Facilities/Not-for-Profits**

Year 1	50%
Year 2	45%
Year 3	40%
Year 4	35%
Year 5	30%
Year 6	20%
Year 7	10%
Year 8 & after	0%

**Commercial Solar Projects**

The following will be the standard utilized for Property Tax Abatements for Commercial Solar Projects (Hereinafter “Solar Projects). The terms of the Property Tax Abatement shall be described as follows:

- a. The amount of the PILOT payment shall be determined by the Agency as follows:
  - (i) the actual installed capacity of the Commercial Solar Project pursuant to the PILOT Agreement, times
  - (ii) the Base Megawatt Amount, \$4,0000.00 per megawatt.
- b. The agency may take into account the amount of any host community benefit payments payable by the project applicant to an Effected Jurisdictions, or in connection with the funding of the Community Economic Development Fund, in determining the amount of PILOT payments payable by the project applicant.



- c. The Agency may take into account the degree to which the applicant has worked with neighboring property owners to minimize viewshed or other detrimental impact on property values.
- d. The term of the PILOT Agreement shall be 20 years.
- e. The PILOT payment determined above shall be increased annually by 2.0% during the term of the PILOT Agreement.
- f. The PILOT Agreement will provide that if the existing assessment of the underlying parcel and existing improvements relating to the Commercial Solar Project does not remain fully taxable on the relevant assessment rolls, the PILOT Agreement shall require that PILOT payments be made with respect to such underlying parcel and existing improvements in an amount equal to 100% of the normal tax with respect thereto.
  - a. Note the following defined terms:

“Base Megawatt Amount” means the megawatt amount used by the Agency in calculating the PILOT payments. The Base Megawatt Amount as provided in this UTEP shall initially be equal to \$4,000.00, and such amount shall be fixed for the term of each PILOT Agreement; provided, however, that the Base Megawatt Amount as provided in the UTEP shall be subject to review by the Agency at least annually.

“Commercial Solar Facility” means a group of solar panels and related facilities in the same location intended to be used for the production of electric power to be sold to third parties but shall not include a Small Alternate Energy Facility. In the event of a question whether a solar facility is a Small Alternate Energy Facility or a Commercial Solar Facility, the determination of the Agency on that subject shall be final. A Commercial Solar Facility includes all related equipment determined by the Agency to be necessary or desirable for collecting such electric energy and delivering same to the electric grid but shall not include the land and improvements that were included on the tax rolls of the Affected Tax Jurisdictions prior to the commencement of the project of which such Commercial Facility is a part. A Commercial Solar Facility is a facility providing electric energy on a commercial scale and shall include Community Solar Projects.

“Small Alternate Energy Facility” means a facility (1) that is determined by the Agency to be a facility described in Section 487(1) of the Real Property Tax Law (including solar or wind energy equipment, a solar or wind energy system, farm waste electric generating equipment, and a farm waste energy system), (2) that is installed or to be installed in a residence, a farm or a small business located within Chenango County and (3) that is not a Commercial Solar Facility.

“Affected Jurisdictions” means the municipalities and school district within which a project is located, including the appropriate town, Chenango County, and, if relevant, the appropriate village.

IX  
AGENTS

Agents of the Agency, project operators or agents of project operators shall annually file a statement with the NYS Department of Taxation and Finance, on a form and in such a manner as is prescribed by the Commissioner of Taxation and Finance, of the value of all sales and use tax exemption claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators. The penalty for failure to file such statement shall be the removal of authority to act as an agent of the Agency.

X  
FORFEITURE/RECAPTURE

The CCIDA shall periodically review the economic impact of each of the projects which is actively receiving financial assistance. This will be done sooner where it is obvious that significant deviation from the original intent of the project is realized.

All PILOT agreements will contain provisions that allow for the recapture of past, and cancellation of future tax abatements. In determining the extent of recapture or cancellation, the CCIDA shall consider the extent to which the company has met its proposed economic impacts.

The following policy concerning recapture of the abated taxes shall apply:

1. Sale or Closure of the Facility: The real property tax abatements are terminated immediately, and the property deeded back to the owner and/or the straight-lease transaction is terminated.
2. Significant Employment Reductions: The CCIDA may carefully examine employment reductions and in the event that the CCIDA finds that such reductions are temporary situation, the CCIDA may determine not to take any action. Should the CCIDA determine that such reductions are or may be permanent, then the real property tax abatement will be reduced by up to 100% and/or recapture of financial assistance can be pursued, at the discretion of the CCIDA and in consultations with the affected taxing jurisdictions.
3. Significant Change in the Use of Facility: If the change still is consistent with acceptable CCIDA policy and there is insignificant job loss, the CCIDA may determine not to take any action. If this change falls outside acceptable CCIDA policy, then the withdrawal of entire real property tax abatement and/or recapture of financial can be pursued at the discretion of CCIDA an in consultation with the affected tax jurisdictions.

XI  
AMENDMENT

This policy may be amended by resolution of the Agency. Whenever such amendment is proposed the Agency shall solicit input and comments from the affected tax jurisdictions.

XII  
EFFECTIVE DATE

This policy shall be effective immediately.

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**MEMORANDUM**

**TO:** Barbara Knowles  
Chenango County IDA

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION**

**FROM:** Matthew N. Wells, Esq.

**DATE:** January 27, 2023

**RE:** New IDA Legislation – Notices to Tax Jurisdictions

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New York State adopted legislation on December 23, 2022 amending the General Municipal Law and the Public Authorities Law. Effective January 1, 2023 the IDA must now deliver copies of all **inducement resolutions** and **deviation notices** via certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction. School District notices must be mailed to both the school board president and the district superintendent.

A copy of the amended provisions are attached. The purpose of the law is to ensure transparent communication so that all taxing jurisdictions receive full disclosure of any proposed financial assistance prior to the IDA adopting a final authorizing resolution.

Let's discuss a process going forward to ensure compliance.

**S 3256** COMRIE Same as [A 10056](#) Solages  
 ON FILE: 01/29/21 General Municipal Law  
 TITLE....Relates to requiring notice and confirmation of such notice by affected local taxing jurisdictions and school districts prior to approval of projects by industrial development agencies  
 01/28/21 REFERRED TO LOCAL GOVERNMENT  
 05/10/21 1ST REPORT CAL.943  
 05/11/21 2ND REPORT CAL.  
 05/12/21 ADVANCED TO THIRD READING  
 06/03/21 PASSED SENATE  
 06/03/21 DELIVERED TO ASSEMBLY  
 06/03/21 referred to local governments  
 01/05/22 died in assembly  
 01/05/22 returned to senate  
 01/05/22 REFERRED TO LOCAL GOVERNMENT  
 03/07/22 1ST REPORT CAL.644  
 03/08/22 2ND REPORT CAL.  
 03/09/22 ADVANCED TO THIRD READING  
 03/15/22 PASSED SENATE  
 03/15/22 DELIVERED TO ASSEMBLY  
 03/15/22 referred to local governments  
 05/17/22 substituted for a10056  
 05/17/22 ordered to third reading rules cal.255  
 05/17/22 passed assembly  
 05/17/22 returned to senate  
 12/12/22 DELIVERED TO GOVERNOR  
 12/23/22 SIGNED CHAP.766  
 12/23/22 APPROVAL MEMO.68

**A10056** Solages Same as [S 3256](#) COMRIE  
 General Municipal Law  
 TITLE....Relates to requiring notice and confirmation of such notice by affected local taxing jurisdictions and school districts prior to approval of projects by industrial development agencies  
 04/29/22 referred to local governments  
 05/10/22 reported referred to rules  
 05/17/22 reported  
 05/17/22 rules report cal.255  
 05/17/22 substituted by s3256  
**S03256** **COMRIE**  
 01/28/21 REFERRED TO LOCAL GOVERNMENT  
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**COMRIE, MAY**

Amd §§859-a & 874, Gen Muni L; amd §§1953-a, 1963-a, 2307 & 2315, Pub Auth L

Relates to requiring notice and confirmation of such notice by affected local taxing jurisdictions and school districts prior to approval of projects by industrial development agencies.

EFF. DATE 01/01/2023

**Same-As History:**

Bill Version	Same-As Bill
<a href="#">S 3256</a>	<a href="#">A 10056</a>
Current Same-As	
S 3256	A10056

Chapter	Bill No.	Signed Date	Effective Date
766	S3256	12/23/2022	takes effect on (1/1/23) the first of January next succeeding the date on which it shall have become a law

AN ACT to amend the general municipal law and the public authorities law, in relation to requiring notice and confirmation of such notice by affected local taxing jurisdictions and school districts prior to approval of projects by industrial development agencies

Became a law December 23, 2022, with the approval of the Governor.  
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 859-a of the general municipal law is amended by adding a new subdivision 1-a to read as follows:

1-a. The agency shall deliver a copy of the resolution adopted pursuant to subdivision one of this section by certified mail, return receipt requested, to the chief executive officer of each affected local taxing jurisdiction. When the affected local taxing jurisdiction is a school district, the agency shall deliver a copy of such resolution by certified mail, return receipt requested, to the school board and district superintendent of each affected school district.

§ 2. Paragraph (b) of subdivision 4 of section 874 of the general municipal law, as amended by chapter 357 of the laws of 1993, is amended to read as follows:

(b) The agency shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this subdivision. The agency shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested, the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor. When the affected local taxing jurisdiction is a school district, the agency shall notify by certified mail, return receipt requested, the school board and district superintendent of each affected school district.

§ 3. Section 1953-a of the public authorities law is amended by adding a new subdivision 1-a to read as follows:

1-a. The authority shall deliver a copy of the resolution adopted pursuant to subdivision one of this section by certified mail, return receipt requested, to the chief executive officer of each affected tax jurisdiction. When the affected tax jurisdiction is a school district, the authority shall deliver a copy of such resolution by certified mail, return receipt requested, to the school board and district superintendent of each affected school district.

§ 4. Subdivision 2 of section 1963-a of the public authorities law, as amended by chapter 357 of the laws of 1993, is amended to read as follows:

2. The authority shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this section. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested, the affected tax jurisdictions of the proposed deviation from

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

such policy and the reasons therefor. When the affected tax jurisdiction is a school district, the authority shall notify by certified mail, return receipt requested, the school board and district superintendent of each affected school district.

§ 5. Section 2307 of the public authorities law is amended by adding a new subdivision 1-a to read as follows:

1-a. The authority shall deliver a copy of the resolution adopted pursuant to subdivision one of this section by certified mail, return receipt requested, to the chief executive officer of each affected tax jurisdiction. When the affected tax jurisdiction is a school district, the authority shall deliver a copy of such resolution by certified mail, return receipt requested, to the school board and district superintendent of each affected school district.

§ 6. Subdivision 2 of section 2315 of the public authorities law, as amended by chapter 357 of the laws of 1993, is amended to read as follows:

2. The authority shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this section. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify by certified mail, return receipt requested, the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor. When the affected tax jurisdiction is a school district, the authority shall notify by certified mail, return receipt requested, the school board and district superintendent of each affected school district.

§ 7. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

ANDREA STEWART-COUSINS  
Temporary President of the Senate

CARL E. HEASTIE  
Speaker of the Assembly

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S3256

**SPONSOR:** COMRIE

**TITLE OF BILL:**

An act to amend the general municipal law and the public authorities law, in relation to requiring notice and confirmation of such notice by affected local taxing jurisdictions and school districts prior to approval of projects by industrial development agencies

**PURPOSE OR GENERAL IDEA OF BILL:**

This bill would ensure that important notifications required by law to be given by Industrial Development Agencies (IDAs) are received by affected local taxing jurisdictions.

**SUMMARY OF PROVISIONS:**

This bill amends General Municipal Law and Public Authorities Law to require IDAs to send notifications of proposed financial incentives for a project and any reasons for deviation from their uniform tax exemption policy to affected local taxing jurisdictions by certified mail, return receipt requested. If the affected local taxing jurisdiction is a school district, notifications are required to be sent to the school board and district superintendent of the school district.

**DIFFERENCE BETWEEN ORIGINAL AND AMENDED VERSION (IF APPLICABLE):**

This amendment expands the notifications that would be required to be sent by certified mail, return receipt requested and places these requirements on the Troy and Auburn IDAs, which are separately authorized in Public Authorities Law.

**JUSTIFICATION:**

Industrial Development Agencies (IDAs) deliver economic incentives to business and industry, strengthen the local tax base and support local job creation. In order to ensure this mission, IDAs must work cooperatively with local governments, economic development partners and school districts. This bill will ensure coordination and transparency among stakeholders without inhibiting economic growth or having a negative impact on school district revenues or local taxpayers.

**PRIOR LEGISLATIVE HISTORY:**

S 8956 COMRIE Same as A 10373-A Solages

**FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:**

None.

**EFFECTIVE DATE:**

This act shall take effect on the first of January next succeeding the date on which it shall have become a law.