

**COUNTIES OF WARREN AND WASHINGTON  
INDUSTRIAL DEVELOPMENT AGENCY**

5 Warren Street, Suite 210  
Glens Falls, New York 12801

Tel. (518) 792-1312  
www.warren-washingtonida.com

A special meeting of the Counties of Warren and Washington Industrial Development Agency was held on Monday, January 30, 2023 at 4:00 PM at the Warren County Municipal Building located at 1340 State Route 9, Lake George and via Zoom.

The following were:

**PRESENT:**

Dave O'Brien	Chair
Nick Caimano	Member
Dan Bruno	Park Chair
Juan Gonzales	Member
Tim Robinson	Member
Brian Campbell	Member
Mike Wild	Member
Mary King	Member
Ginny Sullivan	Member
Craig Leggett	Vice Chair

***The following were also present:***

Kara Lais, Esq.	FitzGerald Morris Baker Firth, PC
Chuck Barton	WWIDA CEO
John Taflon	Warren County Administrator
Teri Ross	Town of Queensbury Assessor
Carson Weinand	Business Partner, CVE Solar North America
Scott Whittemore	Queensbury School District Assistant Superintendent
<b><i>Minutes were taken by:</i></b> Alie Weaver	WWIDA Office Administrator

Roll call was taken, and a quorum was confirmed.

**CVE Project** – Mr. O'Brien stated that CVE Solar has submitted a revised application for assistance.

Mr. Barton stated that the total project cost has gone up about 3 million dollars and an addendum was added to clarify site conditions and location, tax revenue statuses, environmental benefits, community solar benefits, the NYSERDA grant, and federal tax incentive credits.

Mr. O'Brien stated that the revised application and the addendum are posted to the WWIDA website.

Ms. Ross, Town of Queensbury Assessor, stated that the New York State Assessor's Association is opposed to the solar model that the Department of Taxation and Finance developed as it greatly decreases the value of solar projects compared to what assessors believe full market values to be.

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Discussion ensued on possible factors that would determine the base value of the project.

Mr. Weinand stated that there is risk of not going forward with the CVE project if they aren't able to receive IDA PILOT benefits as the stable property tax payments are needed to secure financing.

Ms. Ross stated that Queensbury has five other projects on the horizon that are also 5 MW solar farms and none of those have requested an IDA PILOT. She noted that the Town of Queensbury will not be opting out of their Town PILOT for these five other projects but will require that 50% of their taxes be paid each year. She also noted that the County intends to put their own PILOT in place as well and the Queensbury School District will require 100% of taxes to be paid each year.

Mr. Wild stated that the original application did not mention the NYSERDA grant and questioned if power purchase agreements would be in place with National Grid for this project.

Mr. Weinand stated that grant funding is considered revenue, and not a source of financing. He added that payments are not received until construction is complete and operation has begun.

He also stated that they receive VODER (Value of Distributed Energy Resources) credits, at which point is 13 cents per KW hour and this agreement will be in effect for twenty-four years for this project.

Mr. Campbell stated that he feels sales tax and mortgage tax exemptions should not be granted as solar projects do not provide any jobs.

Mr. Robinson requested a list of local vendors to be provided prior to the next CVE Public Hearing.

Mr. Wild made a motion to accept the amended CVE solar application to further discussions and Mr. Caimano seconded and all voted in favor by voice vote.

Mr. Wild modified the motion to also set the public hearing in the near future and Mr. Bruno seconded.

**Solar Guidelines** - Mr. Barton stated that a service agreement with Emminger, Newton, Pigeon, Magyar, Inc. is currently in the works to assist the IDA with CVE Solar application. He noted that their assistance will extend to any future solar projects as well.

Mr. Barton stated that ENPM, Inc.'s quoted consulting fee for the CVE solar project is up to \$3,500 and will be reimbursable by the developer.

Ms. Ross stated that Mr. Zukowski at ENPM, Inc. is very knowledgeable.

Mr. Caimano made a motion to approve this service agreement and Mr. Bruno seconded. All voted in favor by voice vote.

**Fort William Henry Resolution** – Ms. Lais stated that Fort William Henry is approximately over their current mortgage recording tax exemption approval limit and is requesting an increase of \$19,000.

Mr. Caimano made a motion to approve this resolution and Mr. Robinson seconded. With Ms. Sullivan abstaining, all others voted in favor by roll call vote.

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**Other: public comments CVE** – Ms. Lais addressed a missive that the IDA received by stating the following in response:

- The Solar Policy that was adopted in June of 2018 was repealed in December of 2021.
- The IDA does not own the property that CVE Solar is purchasing, therefore undertaking the analysis of determining the best use of this property does not fall within the IDA's purview. She also noted that the project was approved by the Town of Queensbury's Planning Board.
- The amended and resubmitted application for CVE Solar discloses public funding sources.
- The current tax rates are used for cost benefit calculations and not all of the project costs can be considered in the PILOT calculations, such as soft costs.
- Although the CVE Solar project was approved, no financial assistance has been granted thus far.
- Statical information on cars and forests have been revised in the amended application.
- The IDA has consistently encourage projects to use local materials.

Mr. Wienand added that restated environmental benefits are provided on the addendum and he stands behind the production figure of 9.5 million KW hours per year.

**Other: Residential Policy** - Mr. O'Brien read aloud the IDA Act from an article of the New York Law Journal, summarizing the purpose of the IDA is for the economic development of the state, with no mandates to create jobs for economic benefits.

He noted that the Lake George Town, Village, and School District was in favor of the residential project that the IDA supported, and mentioned the hospital is also in need of housing for their employees.

**Adjournment** - There being no further business to discuss, Mr. O'Brien adjourned the January 30th IDA Special Meeting at 5:15pm.



January 26, 2023

Warren-Washington IDA  
5 Warren St  
Glens Falls, NY 12801

**RE: Addendum to CVE North America's amended application for benefits with the Warren and Washington Industrial Development Agency, for a 5MWac community solar facility located at 53 Quaker Ridge Blvd in the Town of Queensbury, County of Warren, New York State, on Tax Parcel No.: 303.11-1-4.1.**

Dear Members of the IDA and Community:

CVE North America, Inc. ("**CVE**" or the "**Applicant**") has prepared the following remarks in support of Applicant's amended application for PILOT, sales tax, and mortgage recording tax benefits with the Warren and Washington Industrial Development Agency. Applicant believes these statements to be true in nature and supportive of the award of benefits.

### **1. Site Conditions & Location**

Total parcel size is 80 acres, total project area is 33.7 acres. A large portion of the property, approximately 35 acres, is NYSDEC wetlands and the mandatory 100-foot buffer area.

Overall, the site location is favorable for solar:

- The parcel is landlocked with limitations on access, that must cross a National Grid transmission-line ROW
- The parcel directly abuts The Floyd Bennett Memorial Airport and includes structure height limitations
- The parcel includes approximately 35 acres of NYSDEC wetlands and mandatory 100-foot buffer area
- The parcel includes undulating topography and areas of steep slopes
- The parcel is sited away from major roads, viewsheds, and residential abutters or subdivision

Other non-solar uses of the property would be difficult to execute, permit, and construct.



## 2. Status of RPTL 487 & Tax Revenue Scenarios

<u>RPTL 487 Status</u>	
<u>School District</u>	Opted-in
<u>Town</u>	Did not respond to CVE's RPTL 487 Notice of Intent to Construct Solar Energy System on December 6 <sup>th</sup> , 2021
<u>County</u>	Response to RPTL 487 Notice of Intent to Construct Solar Energy System received by CVE

<u>Tax Revenue Scenario #1: IDA PILOT</u>		
	<b>Assumptions</b>	<b>15-year Revenue</b>
<u>School District</u>	\$6,500 / MWac / year; 2% escalation; split pro-rata	\$440,985
<u>Town</u>	\$6,500 / MWac / year; 2% escalation; split pro-rata	\$14,306
<u>County</u>	\$6,500 / MWac / year; 2% escalation; split pro-rata	\$106,745

<u>Tax Revenue Scenario #2: No PILOT (NYS Dept. Taxation &amp; Finance Model)</u>		
	<b>Assumptions</b>	<b>15-year Revenue</b>
<u>School District</u>	\$3,129,687 solar facility assessed value; depreciating annually at 4%	\$491,596
<u>Town</u>	No response to RPTL 487 Notice of Intent	\$0
<u>County</u>	\$3,129,687 solar facility assessed value; depreciating annually at 4%	\$118,488

**Note:** tax revenue estimates include improvements only (solar facility only), land tax and special district taxes were excluded.

### 3. Environmental Benefits

The solar facility will produce approximately 9,500,000 kWh/year. Per the EPA's Greenhouse Gas Equivalencies Calculator, the positive environmental impacts are:

This is equivalent to greenhouse gas emissions from:

1,451

gasoline-powered passenger vehicles driven for one year ?



16,711,408

miles driven by an average gasoline-powered passenger vehicle ?



This is equivalent to carbon sequestered by:

111,322

tree seedlings grown for 10 years ?



7,967

acres of U.S. forests in one year ?



45.4

acres of U.S. forests preserved from conversion to cropland in one year ?



Source: EPA Greenhouse Gas Equivalencies Calculator

Over the 35-year useful life of the solar facility, the environmental benefits are equivalent to eliminating approximately **50,000 gasoline-powered passenger vehicles** from the road.

#### **4. Community Solar Benefits**

Approximately 800 National Grid customers will be able to subscribe to the solar facility, to receive a 10% discount on the bill credits that are allocated to their monthly utility bills.

Subscribers can subscribe with no signup costs or termination fees.

Subscribers will be a mix of low-income and market-rate customers.

In total, the 800 subscribers will reduce their energy cost by about \$3,700,000 over 25-years (assuming energy rate of \$0.13 / kWh today, escalating at 2% per year).

#### **5. NYSERDA Grant**

On August 10<sup>th</sup>, 2022, CVE US E18 Quaker, LLC was awarded \$1,222,551.20 from NYSERDA's NY-Sun grant program. These funds are paid at milestones; 50% at Commercial Operation Date, 25% at the end of Year 1, and 25% at the end of Year 2. Applicant considers these funds a source of revenue, not a source of financing for CapEx costs.

NYSERDA is a New York State public-benefit corporation that offers information and analysis, programs, technical expertise, and funding aimed at helping New Yorkers increase energy efficiency, save money, use renewable energy, and reduce their reliance on fossil fuels. NYSERDA professionals are charged with protecting the environment and creating clean-energy jobs. NYSERDA collaborates with businesses, industry, the federal government, academia, the environmental community, public interest groups, and energy market participants to reduce energy consumption and greenhouse gas emissions.

The New York State Energy Research and Development Authority (NYSERDA) is governed by a 13-member Board appointed by the Governor with advice and consent of the New York Senate.

#### **6. Federal Investment Tax Credits ("ITC")**

All renewable energy projects nationwide qualify for the Federal Investment Tax Credit ("ITC"). The ITC is valued at 30% of project costs and allows the recipient to reduce their tax liability by an equal amount. For the CVE US E18 Quaker LLC project, the value of the ITC is approximately \$5,000,000. CVE does not have tax liability sufficient to monetize the ITC, therefore CVE sources an external Tax Equity Partner to provide financing into the project in exchange for the ITC.



The direct benefit of the ITC is that this Tax Equity Partner can fully monetize the ITC and reduce their tax liability. The indirect benefit of the ITC is that the outside investment from the Tax Equity Partner reduces the amount of investment needed from CVE, thus increasing the rate of return on CVE's equity commitment, and allowing all parties to reach required rates of return in order for the project to proceed. Without the ITC, CVE's required equity commitment would jump from \$1,620,968 to approximately \$6,700,000.

For the Tax Equity Partner to monetize the ITC, a Partnership Flip financing structure is pursued, in which the Tax Equity Partner is the 99% equity owner of the project company LLC for years 1 – 6. During those years, the Tax Equity Partner can claim the ITC with the IRS to reduce their tax liability, plus they receive additional returns through a Preferred Payment (\$112k / year) that must be paid by the project. After year 6, CVE will exercise their rights to buy-out the Tax Equity Partner, and will pay a fee of \$390k, which is about 7% of the Tax Equity Partner's initial investment, to gain full ownership of the project.

## 7. **Financial Metrics**

Below is a summary of key financial metrics for the project, as audited by Novogradac & Company LP, an independent financial services advisory firm. These metrics were the basis of securing investment agreements with our lender and tax equity partners.

CVE US E18 Quaker LLC – Financial Metrics – Over 25 Years	
Total Revenue	\$37,413,708
Total Operating Expenses	\$5,893,269
Total Tax Equity Partner Expense	\$1,060,000
Total Debt Service Expense	\$21,030,912
Total CVE Equity Investment	\$1,620,968
Total Returns to CVE	\$9,993,072
Net Present Value of Total Returns to CVE (using 8% discount rate)	\$4,681,836

Please note that these figures are subject to risk. There are many factors such as cost of energy, energy production of the system, and cost of operations & maintenance that could perform in unexpected ways and negatively impact the returns. The assumptions that were used were:

- i) cost of energy will escalate at 2% per year
- ii) energy output of the system will perform at P50 levels per industry-accepted PVSyst software modeling, meaning that given historical weather patterns, the system will produce that level of electricity 50% of the time and
- iii) cost of operations & maintenance will escalate at 2% - 3% per year.

Financial returns will be much worse if for example, the cost of energy only escalates at 0.5% per year, and the system produces only at P75 levels.



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Please answer all questions. Use "None" or "Not Applicable" where necessary. Return one signed original (with all 19 pages) plus three (3) copies to our Agency with the application fee of \$1,500.00. (A credit of \$750.00 will be applied to closing costs.)

**A) Applicant Information-company receiving benefit:**

Applicant Name: CVE US EIB Quaker, LLC

Applicant Address: 109 W 27th St, Floor 8, New York, NY 10001

Phone: (914) 847-0043 Fax: \_\_\_\_\_

Website: cvenorthamerica.com E-mail: thibaut.delespaul@cvegroup.com

Federal ID#: 88-2746072

Will a Real Estate Holding Company be utilized to own the Project property/facility? ☒ Yes or ☐ No

What is the name of the Real Estate Holding Company? CVE NA Devco, LLC

Federal ID#: 87-1585943

State and Year or Incorporation/Organization: 2021 (CVE NA Devco); New York

List of stockholders, members, or partners of Real Estate Holding Company: \_\_\_\_\_

CVE NA Part. 1, Inc., Sole Member

**B) Company Contact for this Application:**

Name: Carson Weinand

Title: Senior Business Developer

Address: 109 W 27th St, Floor 8, New York, NY 10001

Phone: 239-784-8080 Fax: \_\_\_\_\_

E-Mail: carson.weinand@cvegroup.com

**C) Company Counsel:**

Name of Attorney: Joshua Sabo

Firm Name: Couch White LLP

Address: 540 Broadway, Albany, New York 12201

Phone: 518-426-4600 Fax: \_\_\_\_\_

E-mail: jsabo@couchwhite.com



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**D) Identify the assistance being requested of the Agency (select all that apply):**

- |                                     |  |
|-------------------------------------|--|
| 1. Exemption from Sales Tax         | <input checked="" type="checkbox"/> Yes or <input type="checkbox"/> No |
| 2. Exemption from Mortgage Tax      | <input checked="" type="checkbox"/> Yes or <input type="checkbox"/> No |
| 3. Exemption from Real Property Tax | <input checked="" type="checkbox"/> Yes or <input type="checkbox"/> No |
| 4. Tax Exempt Financing *           | <input type="checkbox"/> Yes or <input checked="" type="checkbox"/> No |

\* (typically for not-for-profits & small qualified manufacturers)

**E) Business Organization (check appropriate category):**

- |                     |                          |                           |                                     |
|---------------------|--------------------------|---------------------------|-------------------------------------|
| Corporation         | <input type="checkbox"/> | Partnership               | <input type="checkbox"/>            |
| Public Corporation  | <input type="checkbox"/> | Joint Venture             | <input type="checkbox"/>            |
| Sole Proprietorship | <input type="checkbox"/> | Limited Liability Company | <input checked="" type="checkbox"/> |

Other (please specify) \_\_\_\_\_

Year Established: 2022

State in which Organization is established: New York

**F) List all stockholders, members, or partners with % of ownership greater than 20%:**

<u>Name</u>	<u>% of ownership</u>
<u>CVE NA Devco LLC, Sole Member</u>	<u>100%</u>
_____	_____
_____	_____

**G) Applicant Business Description:**

Describe in detail company background, products, customers, goods and services. Description is critical in determining eligibility: CVE North America, Inc. ("CVE NA") is an Independent Power Producer ("IPP") specializing in the development and long-term ownership and operation of renewable energy assets, primarily solar energy through out the United States. CVE NA is part of the larger CVE Group, which has over 250 employees worldwide and over 400 operating renewable energy assets. CVE NA, with offices in New York City since 2016, has successfully constructed 35 MWs in Massachusetts and is beginning construction on 73 MWs in New York in 2022. CVE NA is seeking sales tax, mortgage recording tax, and property tax benefits for a 5MW community solar project located in the Town of Queensbury.

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Estimated % of sales within County/City/Town/Village: 50%

Estimated % of sales outside County/City/Town/Village. but within New York State: 50%

Estimated % of sales outside New York State but within the U.S.: \_\_\_\_\_

Estimated % of sales outside the U.S. \_\_\_\_\_

(\*Percentage to equal 100%)

**H)** What percentage of your total annual supplies, raw materials and vendor services are purchased from firms in County/City/Town/Village. Include list of vendors, raw material suppliers and percentages for each.

Approximately 50%.



**A) Project Location:**

1. Street Address: 53 Quaker Ridge Boulevard
2. City/Town where located: Queensbury
3. Village where located: \_\_\_\_\_
4. School District where located: Queensbury Union Free
5. Fire District where located: \_\_\_\_\_
6. County where located (Circle One): Warren Washington
7. Tax Parcel Map # for Property where proposed Project will be located: 303.11-1-4.1

Will the completion of the Project result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state OR in the abandonment of one or more plants or facilities of the project occupant located within the state?

☐ Yes ☒ No

If the Proposed Project is located in a different Municipality than the Municipality in which current operations are being undertaken, is it expected that any of the facilities in any other Municipality will be closed or be subject to reduced activity?

☐ Yes ☒ No

If Yes, you will need to complete Section II (Q) and Section IV of this Application.

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What is the current real estate/school taxes on the proposed Project Site? \$ \_\_\_\_\_

If amount of current taxes is not available, provide assessed value for each:

Land: \$ 364,000

Buildings(s): \$ \_\_\_\_\_

➤ *If available please include a copy of current tax bill.*

Are Real Property Taxes current? ☒ Yes or ☐ No. If no, please explain \_\_\_\_\_

Does the Applicant or any related entity currently hold fee title to the Project site? ☐ Yes or ☒ No

If No, indicate name of present owner of the Project Site: Forest Enterprises Management, Inc.

Does Applicant or related entity have an option/contract to purchase the Project site? ☒ Yes or ☐ No

Describe the present use of the proposed Project site: Vacant.

**B) Please provide narrative of project and the purpose of the project (new build, renovations, and/or equipment purchases). Identify specific uses occurring within the project. Describe any and all tenants and any/all end users: (This information is critical in determining project eligibility):** \_\_\_\_\_

Applicant will own and operate a 5MWac community solar facility for 25 - 35 years. This is a new construction project on a parcel that is currently vacant. Applicant will also own the entire project site.

**Describe the reasons why the Agency's Financial Assistance is necessary, and the effect the Project will have on the Applicant's business or operations. Focus on competitiveness issues, project shortfalls, etc... Your eligibility determination will be based in part on your answer (attach additional pages if necessary):** \_\_\_\_\_

Absent the agency's financial assistance, the project construction will not take place. The upfront and ongoing tax burdens will be too large.

**The Project would not be undertaken but for the Financial Assistance provided by the Agency or, if the Project could be undertaken without Financial Assistance provided by the Agency, then the Project should be undertaken by the Agency for the following reasons (attach additional pages if necessary):**



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**If the Applicant is unable to obtain Financial Assistance for the Project, what will be the impact on the Applicant and County/City/Town/Village?** Construction of a \$17.5M solar facility will not occur. About 800 - 1,000 residents will not receive energy savings for 25 years. The Town, School, and County will forfeit hundreds of thousands of dollars of tax revenue.

**C) Will Project include leasing any equipment?** ☐ Yes ☒ No  
If Yes, please describe: \_\_\_\_\_

**D) Site Characteristics:**

Will the Project meet zoning/land use requirements at the proposed location? ☒ Yes or ☐ No

Describe the present zoning/land use: CLI (Commercial Light Industrial)

Describe required zoning/land use, if different: \_\_\_\_\_

If a change in zoning/land use is required, please provide details/status of any request for change of zoning/land use requirements: The access parcel was successfully rezoned from Commercial Intensive to Commercial Light Industrial. No rezoning required on the main parcel where the solar facility is located.

Is the proposed project located on a site where the known or potential presence of contaminants is complicating the development/use of the property? If yes, please explain: No. Not applicable.

**E) Has a Phase I Environmental Assessment been prepared or will one be prepared with respect to the proposed project site?** ☒ Yes ☐ No **If yes, please provide a copy.** One to be prepared.

**F) Have any other studies or assessments been undertaken with respect to the proposed project site that indicate the known or suspected presence of contamination that would complicate the site's development?**  
☐ Yes ☒ No **If yes, please provide copies of the study**

**G) Provide any additional information or details:** Not applicable.

**H) Select Project Type for all end users at project site (you may check more than one):**

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Please check any and all end users as identified below.

Will customers personally visit the Project site for either of the following economic activities? If yes with respect to either economic activity indicated below, complete the Retail Questionnaire contained in Section IV of the Application.

Retail Sales: ☐ Yes ☒ No

Services: ☐ Yes ☒ No

For purposes of this question, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

Industrial ☐  
Acquisition of Existing Facility ☐  
Housing ☐  
Equipment Purchase ☐  
Multi-Tenant ☐  
Commercial ☐

Back Office ☐  
Retail ☐  
Mixed Use ☐  
Facility for Aging ☐  
Civic Facility (not for profit) ☐  
Other ☐

**D) Project Information:**

**Estimated costs in connection with Project:**

- |  |              |
|--|--------------|
| 1. Land and/or Building Acquisition:   | \$ 725,000   |
| 80 _____ acres _____ square feet   |              |
| 2. New Building Construction: _____ square feet  | \$ _____     |
| 3. New Building Addition(s): _____ square feet   | \$ _____     |
| 4. Infrastructure Work   | \$ 3,500,000 |
| 5. Reconstruction/Renovation: _____ square feet  | \$ _____     |
| 6. Manufacturing Equipment:  | \$ _____     |
| 7. Non-Manufacturing Equipment (furniture, fixtures, etc.):  | \$ 8,750,000 |
| 8. Soft Costs: (professional services, etc.):  | \$ 1,750,000 |
| 9. Other, Specify: <small>Financing transaction costs, debt service reserve account, construction debt interest, customer acquisition costs, legal fees, performance bond, interconnection upgrades.</small> | \$ 2,750,000 |

TOTAL Capital Costs: \$ 17,475,000

**Project refinancing; estimated amount**  
**(for refinancing of existing debt only)**

\$ \_\_\_\_\_

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**Sources of Funds for Project Costs:**

Bank Financing: \$ 10,854,032

Equity (excluding equity that is attributed to grants/tax credits) \$ \$1,620,968

Tax Exempt Bond Issuance (if applicable) \$ \_\_\_\_\_

Taxable Bond Issuance (if applicable) \$ \_\_\_\_\_

Public Sources (Include sum total of all state and federal grants and tax credits) \$ 5,000,000

Identify each state and federal grant/credit:

NYSERDA NY-Sun Grant\* \$ 1,222,551.20

\*Not a source of financing; it is revenue paid over two years. NYSERDA is a New York State public-benefit corporation.

Federal Investment Tax Credit \$ \$5,000,000

Total Sources of Funds for Project Costs: \$ \_\_\_\_\_

Have any of the above costs been paid or incurred as of the date of this Application? ☐ Yes ☒ No

If Yes, describe particulars: \_\_\_\_\_

**Mortgage Recording Tax Exemption Benefit:** Amount of mortgage that would be subject to mortgage recording tax:

Mortgage Amount (include sum total of construction/permanent/bridge financing): \$ 15,727,500

Estimated Mortgage Recording Tax Exemption Benefit (product of mortgage Amount as indicated above multiplied by 1.25%): \$ 196,593.75

**Construction Cost Breakdown:**

Total Cost of Construction \$ 12,250,000 (sum of 2,3,4,5, and 7; if 7 is applicable, in Question I, above)

Cost for materials: \$ 9,750,000

% sourced in County/City/Town/Village: 50 %

% sourced in State 50 % (including County/City/Town/Village)

Cost for labor: \$ 3,000,000

Estimated number of construction jobs for your project: 40



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**Sales and Use Tax:** Gross amount of costs for goods and services that are subject to State and local Sales and Use tax - said amount to benefit from the Agency's Sales and Use Tax exemption benefit:

\$ 12,250,000

Estimated State and local Sales and Use Tax Benefit (product of \_\_\_\_% multiplied by the figure, above):

\$ 300,000

*\*\* Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to undertake the total amount of investment as proposed within this Application, and that the estimate, above, represents the maximum amount of sales and use tax benefit that the Agency may authorize with respect to this Application. The Agency may utilize the estimate, above, as well as the proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered.*

**Real Property Tax Benefit:**

Identify and describe if the Project will utilize a real property tax exemption benefit OTHER THAN the Agency's PILOT benefit: None.

**IDA PILOT Benefit:** Agency staff will indicate the amount of PILOT Benefit based on estimated Project Costs as contained herein and anticipated tax rates and assessed valuation, including the annual PILOT Benefit abatement amount for each year of the PILOT benefit year and the sum total of PILOT Benefit abatement amount for the term of the PILOT as depicted in Section V of the Application.

**Percentage of Project Costs financed from Public Sector sources:** Agency staff will calculate the percentage of Project Costs financed from Public Sector sources based upon Sources of Funds for Project Costs as depicted above in Section II(I) of the Application.

**J)** For the proposed facility, please indicate the square footage for each of the uses outlined below:  
 If company is paying for FFE (furniture, fixtures, equipment) for tenants, please include in cost breakdown

	Square Footage	Cost	% of Total Cost of Project
Manufacturing/Processing			
Warehouse			
Research & Development			
Commercial			
Retail (see page 12)			
Office			
Specify Other			

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**K)** What is your project timetable (Provide dates):

1. Start date: acquisition of equipment or construction of facilities: April 2023
2. Estimated completion date of project: December 2023
3. Project occupancy – estimated starting date of operations: December 2023
4. Have construction contracts been signed? ☐ Yes ☒ No Letter of intent signed.
5. Has Financing been finalized? ☐ Yes ☒ No Term sheet signed.

*If construction contracts have been signed, please provide copies of executed construction contracts and a complete project budget. The complete project budget should include all related construction costs totaling the amount of the new building construction, and/or new building addition(s), and/or renovation.*

**L)** Have site plans been submitted to the appropriate planning department?

☒ Yes ☐ No

If yes, please provide the Agency with a copy of the related State Environmental Quality Review Act ("SEQR") Environmental Assessment Form that may have been required to be submitted along with the site plan application to the appropriate planning department. Please provide the Agency with the status with respect to any required planning department approval: The project has received Site Plan Approval, a SEQR Negative Declaration, and a Special Use Permit.

Has the Project received site plan approval from the planning department? ☒ Yes ☐ No.

If Yes, please provide the Agency with a copy of the planning department approval along with the related SEQR determination.

**M)** Is the project necessary to expand project employment: ☒ Yes ☐ No

Is project necessary to retain existing employment: ☐ Yes ☒ No

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**O) Employment Plan (Specific to the proposed project location):**

	Current # of jobs at proposed project location or to be relocated at project location	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be RETAINED	IF FINANCIAL ASSISTANCE IS GRANTED – project the number of FTE and PTE jobs to be CREATED upon TWO Years after Project completion	Estimate number of residents of the Labor Market Area in which the Project is located that will fill the FTE and PTE jobs to be created upon TWO Years after Project Completion **
Full time (FTE)	0	0	0	0
Part Time (PTE)	0	3	3	3
Total ***	0	1.5	1.5	1.5

\*\* For purposes of this question, please estimate the number of FTE and PTE jobs that will be filled, as indicated in the third column, by residents of the Labor Market Area, in the fourth column. The Labor Market Area includes the Counties of Warren and Washington as well as the following Areas: Counties of Saratoga, Essex and Hamilton.

\*\*\* By statute, Agency staff must project the number of FTE jobs that would be retained and created if the request for Financial Assistance is granted. Agency staff will project such jobs over the TWO-Year time period following Project completion. Agency staff converts PTE jobs into FTE jobs by dividing the number of PTE jobs by two (2).

Salary and Fringe Benefits for Jobs to be Retained and Created:

Category of Jobs to be Retained and Created	Average Salary or Range of Salary	Average Fringe Benefits or Range of Fringe Benefits
Management	\$100-\$150k	Annual bonus, 401k, medical
Professional		
Administrative	60-80k	Annual bonus, 401k, medical
Production		
Independent Contractor	60-80k	Annual bonus, 401k, medical
Other		



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Employment at other locations in County/City/Town/Village: (provide address and number of employees at each location):

	Address	Address	Address
Full time			
Part Time			
Total			

**P)** Will any of the facilities described above be closed or subject to reduced activity? ☐ Yes ☐ No

*\*\* If any of the facilities described above are located within the State of New York, and you answered Yes to the question above, you must complete Section IV of this Application.*

*\*\* Please note that the Agency may utilize the foregoing employment projections, among other items, to determine the Financial Assistance that will be offered by the Agency to the Applicant. The Applicant acknowledges that the transaction documents may include a covenant by the Applicant to retain the number of jobs and create the number of jobs with respect to the Project as set forth in this Application.*

**Q)** Is the project reasonably necessary to prevent the project occupant from moving out of New York State? ☐ Yes ☒ No.

If yes, please explain and identify out-of-state locations investigated, type of assistance offered and provide supporting documentation if available: \_\_\_\_\_

**R)** What competitive factors led you to inquire about sites outside of New York State? \_\_\_\_\_

**S)** Have you contacted or been contacted by other Local, State and/or Federal Economic Development Agencies? ☒ Yes ☐ No.

If yes, please identify which agencies and what other Local, State and/or Federal assistance and the assistance sought and dollar amount that is anticipated to be received: \_\_\_\_\_

\_\_\_\_\_ CVE has received approval for benefits from the agencies in the following Counties: Monroe, Chautauqua, Onondaga, Niagara. CVE will receive PILOT, sales tax, & MRT benefits at terms similar to Warren-Washington.

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**To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.**

**Please answer the following:**

- A.** Will any portion of the project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?

☐ Yes ☒ No. If the answer is yes, please continue. If no, proceed to section V

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

- B.** What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? \_\_\_\_\_  
\_\_\_\_\_ 0 %. **If the answer is less than 33% do not complete the remainder of the retail determination and proceed to section V.**

**If the answer to A is Yes AND the answer to Question B is greater than 33.33%, indicate which of the following questions below apply to the project:**

- 1.** Will the project be operated by a not-for-profit corporation ☐ Yes ☐ No.

- 2.** Is the Project location or facility likely to attract a significant number of visitors from outside the economic development region (list specific County or ED region) in which the project will be located?

☐ Yes ☐ No

If yes, please provide a third-party market analysis or other documentation supporting your response.

- 3.** Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

☐ Yes ☐ No

If yes, please provide a third-party market analysis or other documentation supporting your response.

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4. Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York?

☐ Yes ☐ No.

If yes, explain \_\_\_\_\_

5. Is the project located in a Highly Distressed Area? ☐ Yes ☐ No

The Agency is required by state law to make a determination that, if completion of a Project benefiting from Agency Financial Assistance results in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, Agency Financial Assistance is required to prevent the project occupant from relocating out of the state, or is reasonably necessary to preserve the project occupant's competitive position in its respective industry.

**Will the Project result in the removal of an industrial or manufacturing plant of the Project occupant from one area of the state to another area of the state?** ☐ Yes ☒ No

**Will the Project result in the abandonment of one or more plants or facilities of the Project occupant located within the state?** ☐ Yes ☒ No

If Yes to either question, explain how, notwithstanding the aforementioned closing or activity reduction, the Agency's Financial Assistance is required to prevent the Project from relocating out of the State, or is reasonably necessary to preserve the Project occupant's competitive position in its respective industry: \_\_\_\_\_

**Does the Project involve relocation or consolidation of a project occupant from another municipality?**

**Within New York State**

☐ Yes ☒ No

**Within County/City/Town/Village**

☐ Yes ☒ No

If Yes to either question, please, explain: \_\_\_\_\_



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Section V of this Application will be: (i) completed by IDA Staff based upon information contained within the Application, and (ii) provided to the Applicant for ultimate inclusion as part of this completed Application.

**PILOT Estimate Table Worksheet**

Dollar Value of New Construction and Renovation Costs	Estimated New Assessed Value of Property Subject to IDA*	County Tax Rate/1000	Local Tax Rate (Town/City/Village)/1000	School Tax Rate/1000

\*Apply equalization rate to value

PILOT Year	% Payment	County PILOT Amount	Local PILOT Amount	School PILOT Amount	Total PILOT	Full Tax Payment w/o PILOT	Net Exemption
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
TOTAL							

Estimates provided are based on current property tax rates and assessment value (current as of date of application submission) and have been calculated by IDA's Cost Benefit Software

I, \_\_\_\_\_, have read and reviewed the above information in Section V completed by the WWIDA.

\_\_\_\_\_  
**Signature**

**Percentage of Project Costs financed from Public Sector Table Worksheet:**

Total Project Cost	Estimated Value of PILOT	Estimated Value of Sales Tax Incentive	Estimated Value of Mortgage Tax Incentive	Total of Other Public Incentives (Tax Credits, Grants, ESD Incentives, etc.)

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(Est. PILOT + Est. Sales Tax+ Est. Mortgage Tax+ Other)/Total Project Costs: \_\_\_\_\_%

**\*\* This Section of the Application can only be completed upon the Applicant receiving, and must be completed after the Applicant receives, IDA Staff confirmation that Section I through Section V of the Application are complete.**

\_\_\_\_\_(name of CEO or other authorized representative of Applicant)  
confirms and says that he/she is the \_\_\_\_\_(title) of  
\_\_\_\_\_(name of corporation or other entity) named in the attached  
Application (the "Applicant"), that he/she has read the foregoing Application and knows the contents  
thereof, and hereby represents, understands, and otherwise agrees with the Agency and as follows:

- A. Job Listings: In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located.
- B. First Consideration for Employment: In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, except as otherwise provided by collective bargaining agreements, where practicable, the Applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.
- C. Annual Sales Tax Filings: In accordance with Section 874(8) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant. Copies of all filings shall be provided to the Agency.
- D. Employment Reports: The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, at least annually or as otherwise required by the Agency, reports regarding the number of people employed at the project site, salary levels, contractor utilization and such other information (collectively, "Employment Reports") that may be required from time to time on such appropriate forms as designated by the Agency. Failure to provide Employment Reports within 30 days of an Agency request shall be an Event of Default under the PILOT Agreement between the Agency and Applicant and, if applicable, an Event of Default under the Agent Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the



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Agency with an Employment Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.

- E. The Applicant acknowledges that certain environmental representations will be required at closing. The Applicant shall provide with this Representation, Certification and Indemnification Form copies of any known environmental reports, including any existing Phase I Environmental Site Assessment Report(s) and/or Phase II Environmental Investigations. The Agency may require the Company and/or owner of the premises to prepare and submit an environmental assessment and audit report, including but not necessarily limited to, a Phase I Environmental Site Assessment Report and a Phase II Environmental Investigation, with respect to the Premises at the sole cost and expense of the owner and/or the Applicant. All environmental assessment and audit reports shall be completed in accordance with ASTM Standard Practice E1527-05, and shall be conformed over to the Agency so that the Agency is authorized to use and rely on the reports. The Agency, however, does not adopt, ratify, confirm or assume any representation made within reports required herein.
- F. The Applicant and/or the owner, and their successors and assigns, hereby release, defend and indemnify the Agency from any and all suits, causes of action, litigations, damages, losses, liabilities, obligations, penalties, claims, demands, judgments, costs, disbursements, fees or expenses of any kind or nature whatsoever (including, without limitation, attorneys', consultants' and experts' fees) which may at any time be imposed upon, incurred by or asserted or awarded against the Agency, resulting from or arising out of any inquiries and/or environmental assessments, investigations and audits performed on behalf of the Applicant and/or the owner pursuant hereto, including the scope, level of detail, contents or accuracy of any environmental assessment, audit, inspection or investigation report completed hereunder and/or the selection of the environmental consultant, engineer or other qualified person to perform such assessments, investigations, and audits.
- G. Hold Harmless Provision: The Applicant acknowledges and agrees that the Applicant shall be and is responsible for all costs of the Agency incurred in connection with any actions required to be taken by the Agency in furtherance of the Application including the Agency's costs of general counsel and/or the Agency's bond/transaction counsel whether or not the Application, the proposed Project it describes, the attendant negotiations, or the issue of bonds or other transaction or agreement are ultimately ever carried to successful conclusion and agrees that the Agency shall not be liable for and agrees to indemnify, defend, and hold the Agency harmless from and against any and all liability arising from or expense incurred by: (i) the Agency's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed Project described herein or the tax exemptions and other assistance requested herein are favorably acted upon by the Agency; (ii) the Agency's acquisition, construction and/or installation of the proposed Project described herein; and (iii) any further action taken by the Agency with respect to the proposed Project including, without limiting the generality of the foregoing, all causes of action and 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. Applicant hereby understands and agrees, in accordance with Section 875(3) of the New York General Municipal Law and the policies of the Agency that any New York State and local sales and use tax exemption claimed by the Applicant and approved by the Agency, any mortgage recording tax exemption claimed by the Applicant and approved by the Agency, and/or any real property tax abatement claimed by the Applicant and approved by the Agency, in connection with the Project, may be subject to recapture and/or termination by the Agency under such terms and conditions as will be established by the Agency and set forth in transaction documents to be



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entered into by and between the Agency and the Applicant. The Applicant further represents and warrants that the information contained in this Application, including without limitation information regarding the amount of the New York State and local sales and use tax exemption benefit, the amount of the mortgage recording tax exemption benefit, and the amount of the real property tax abatement, if and as applicable, to the best of the Applicant's knowledge, is true, accurate and complete.

- H. This obligation includes an obligation to submit an Agency Fee Payment to the Agency in accordance with the Agency Fee policy effective as of the date of this Application
- I. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the Agency and for the Agency's general counsel and/or for the Agency's bond/transaction counsel, the same to be paid at the times indicated:
- (i) An application fee of \$1,500.00 with \$750.00 credited towards future administrative fees;
  - (ii) Security Deposit: To ensure that the Agency's costs are reimbursed if the project does not proceed, applicant shall pay to the Agency a security deposit equal to one-half of one percent (0.5%) of the cost of the Project or \$10,000.00, whichever is greater. The maximum initial deposit is set at \$25,000.00. Payment shall be made when the Preliminary Agreement is signed.
  - (iii) Unless otherwise agreed to by the Agency, an Agency fee as follows:

<u>Cost of Project/Amount of Bonds:</u>	<u>Applicable Percentage:</u>
Up to First \$10,000,000	0.75%
Next \$10,000,000	0.50%
Next \$10,000,000	0.25%
Portion over \$30,000,000	0.125%
  - (iv) All fees, costs and expenses incurred by the Agency for (1) legal services, including but not limited to those provided by the Agency's general counsel and/or the Agency's bond/transaction counsel, thus note that the Applicant is entitled to receive a written estimate of fees and costs of the Agency's general counsel and the Agency's bond/transaction counsel; and (2) other consultants retained by the Agency in connection with the proposed project, with all such charges to be paid by the Applicant at the closing.
- J. If the Applicant fails to conclude or consummate the necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable proper or requested action, or withdraws, abandons, cancels, or neglects the Application, or if the Applicant is unable to find buyers willing to purchase the bond issue requested, or if the Applicant is unable to facilitate the sale/leaseback or lease/leaseback transaction, then, upon the presentation of an invoice, Applicant shall pay to the Agency, its agents, or assigns all actual costs incurred by the Agency in furtherance of the Application, up to that date and time, including but not necessarily limited to, fees of the Agency's general counsel and/or the Agency's bond/transaction counsel.

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- K. The Applicant acknowledges and agrees that all payment liabilities to the Agency and the Agency's general counsel and/or the Agency's bond and/or transaction counsel as expressed in Sections H and I are obligations that are not dependent on final documentation of the transaction contemplated by this Application.
- L. The cost incurred by the Agency and paid by the Applicant, the Agency's general counsel and/or bond/transaction counsel fees and the processing fees, may be considered as a cost of the Project and included in the financing of costs of the proposed Project, except as limited by the applicable provisions of the Internal Revenue Code with respect to tax-exempt bond financing.
- M. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). **Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.**
- N. The Applicant acknowledges that it has been provided with a copy of the Agency's Policy for Termination of Agency Benefits and Recapture of Agency Benefits Previously Granted (the "Termination and Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Termination and Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Termination and Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
- O. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:
- § 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.
- P. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
- Q. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
- R. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York



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General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.

- S. The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the Agency and its counsel will rely on the representations and covenants made in this Application when acting hereon and hereby represents that the statements made herein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

STATE OF NEW YORK       )  
COUNTY OF                ) ss.:

\_\_\_\_\_, being first duly sworn, deposes and says:

1. That I am the \_\_\_\_\_ (Corporate Office) of \_\_\_\_\_  
(Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof and I subscribe and affirm, under penalty of perjury that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

\_\_\_\_\_  
(Signature of Officer)

Sworn before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Notary Public)



NYISO Zone		F - Capital	
Plant Type		Solar - Tracking	
System Size		5,000	(kW Wind/kW AC Solar)
Date of Operation		1/1/2022	
Taxable Status Date		3/1/2022	
System Age at Taxable Status Date		0	

Before Tax Discount Rate - WACC	8.00%
Tax Load	2.01%
Loaded Discount Rate	10.01%

Annual Ground Lease Payment (if applicable)	\$0
Annual Ground Lease Escalator (if applicable)	0.00%

Project is Solar and 5,000kW or less and is reimbursed at the VDER rate. Please input additional data below:

VDER Inputs		
Utility Company		National Grid
DRV Rate	\$0.2100	\$/kwh
Community or Market Transition Credit	\$0.0000	\$/kwh
or Community Adder	\$455,000	\$

Note: VDER projects may receive either a Community or Market Transition Credit OR a Community Adder, but they never receive both.

## Data for Model Operation:

Efficiency Factor for Plant Type	20.95%
Typical Expense for Zone (\$/kw)	\$17.68
Fraction of Off-taker Credits to Owner	95%
Expense Scale	1.4550
ValGroup#	2
NYISO Zone	F
Group-Zone	2F
Utility Loss Adjustment Factor	1.084
Economic Life	25
Degradation - 0.5% Per Annum	0.005
Inverter Size	5000
Inverter Age	0
Inverter Replacement Cycle	15
Inverter Replacement Cost New	\$0.10
Inflation (for OpEx)	2.00%

Resolution \_\_\_\_\_  
Adopted \_\_\_\_\_

Introduced by \_\_\_\_\_  
who moved its adoption.

Seconded by \_\_\_\_\_

**RESOLUTION AUTHORIZING A FURTHER PUBLIC HEARING WITH RESPECT  
TO THE CVE US EI8 QUAKER LLC (THE "COMPANY") PROJECT IN  
CONNECTION WITH AN AMENDED APPLICATION**

WHEREAS, CVE US EI8 Quaker LLC, a limited liability company established pursuant to the laws of the State of New York, having an address of 109 W 27<sup>th</sup> Street, Floor 8, New York, New York (the "Company") has requested that the Agency provide financial assistance in the form of a partial real property tax abatement, a mortgage recording tax exemption and a sales tax abatement regarding a certain project (the "Project") to consist of: (i) the acquisition by the Agency of a leasehold interest in certain real properties located at 53 Quaker Ridge Boulevard in the Town of Queensbury, County of Warren, New York and being known as tax map parcel number 303.11-1-4.1 (the "Land"); (ii) the planning, design, construction, operation and maintenance by the Company of a 5MWac community solar facility (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"), all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the "Act"), as amended; and

WHEREAS, on November 21, 2022, following a public hearing concerning the Project, the Agency adopted a resolution appointing the Company as agent of the Agency for purposes of undertaking the Project and further approved of certain financial assistance for the Project; and

WHEREAS, it has been determined that since the time of the initial application certain amendments to the Project scope have been made and the Company has submitted an amended application to the Agency for review and consideration; and

WHEREAS, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and



WHEREAS, the Agency is in the process of reviewing and considering the Company's amended application requesting the Agency to provide additional and varied financial assistance for the proposed Project, as the case may be (collectively the "Financial Assistance") in the form of (i) an exemption from all local sales and use taxes with respect to qualifying personal property included in and incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, (ii) an exemption for mortgage recording tax on eligible mortgages and (iii) a partial real property tax abatement through a payment in lieu of tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to each affected tax jurisdiction (the "Affected Tax Jurisdictions"), all of which shall be consistent with the uniform tax exemption policy of the Agency and any deviations thereof; and

WHEREAS, the Agency desires to (i) accept the amended application; (ii) authorize the scheduling and conduct of a public hearing; and (iii) negotiate, but not enter into an Agent Agreement and Project Agreement, pursuant to which the Agency will designate the Company, as its agent for the purpose of acquiring, constructing and equipping the Project, and Lease Agreement, a Leaseback Agreement and related Payment in lieu of Tax Agreement with the Company.

**NOW, THEREFORE, BE IT RESOLVED:**

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

(a) Pursuant to the Act, the Agency has been vested with all powers necessary and convenient to carry out and effectuate the purposes and provisions of the Act and to exercise all powers granted to it under the Act; and

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

(c) The action to be taken by the Agency will induce the Company to develop the Project and otherwise furthering the purposes of the Agency as set forth in the Act; and

(d) The Project will not result in the removal of a commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State of New York (the "State") to another area of the State or result in the abandonment of one or more plants or facilities of the Company.

2. The proposed amended financial assistance being contemplated by the Agency includes (i) an exemption from all local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$300,000.00 based on purchases in the



amount of \$12,250,000.00; (ii) an exemption from mortgage recording tax for qualifying mortgages in the estimated amount of \$196,594.00 based on mortgages in the approximate amount of \$17,475,000.00; and (iii) a partial real property tax abatement through a PILOT Agreement, pursuant to which the Company would make payments in lieu of real property taxes to the Affected Tax Jurisdictions. The estimated total project cost is \$14,475,000.00.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement whereby the Company leases the Project to the Agency, (C) a related Leaseback Agreement conveying the Project back to the Company, (D) a PILOT Agreement, whereby the Company agrees to make certain payments in lieu of real property taxes and (E) related documents; provided (i) the rental payments under the Agent Agreement and Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

4. The Agency is hereby authorized to schedule and conduct a public hearing pursuant to Article 18-A of the General Municipal Law and at a date and time determined by the Chairman. The Agency hereby further authorizes the posting and publication of a Notice of Public Hearing for the Project and the mailing of such notices to the respective taxing jurisdictions in accordance with the Act and the Agency's policies and procedures.

5. This resolution shall take effect immediately.

The foregoing resolution was thereupon declared duly adopted.

STATE OF NEW YORK       )  
                                      ) SS:  
COUNTY OF WARREN       )

This is to certify that I, Alie Weaver, Records Management Officer for the Counties of Warren and Washington Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Counties of Warren and Washington Industrial Development Agency, Glens Falls, New York on the \_\_\_\_ day of \_\_\_\_\_, 2023.

In witness whereof, I have hereto set my hand and affixed the official seal of the Counties of Warren and Washington Industrial Development Agency on this \_\_\_\_ day of \_\_\_\_\_, 2023.

[SEAL]

\_\_\_\_\_  
Alie Weaver  
Counties of Warren and Washington  
Industrial Development Agency

Warren Washington Industrial Development Agency  
01/26/2310/27/22  
Commercial Solar Energy Tax Incentive Guidelines

DRAFT –

**Purpose**

The Warren Washington Industrial Development Agency (WWIDA) is adopting off-site commercial solar guidelines for renewable energy solar development for the following purposes:

1. Support New York State's "Reforming the Energy Vision" Initiative, which is intended to encourage renewable energy development to spur new energy business models, economic growth, and consumer choice. The initiative sets statewide goals of cutting greenhouse gas emissions by 80% by 2050 and generating 50% of New York's electricity from renewables by 2030.
2. Enhance developers' prospects for financing community projects by offering a uniform PILOT structure that is simple, predictable, and more appealing to lenders. Also assist by offering a single tax exemption policy, eliminating the need to negotiate PILOTs with multiple taxing jurisdictions.
3. Administer a single uniform tax exemption policy across the two counties allowing municipalities to collect long-term predictable payments in lieu of taxes without the burden of developing and administering PILOT agreements at the municipal level.

**Tax Incentive Guidelines**

These guidelines provide incentives for off-site commercial solar projects that provide renewable energy benefits to residential, commercial, and industrial customers.

No SOLAR project will be pursued unless the Municipality agrees in writing to work with the IDA in a SOLAR PILOT. To respect variations in local municipal policy, each solar project IDA application will be noticed to the host municipality and school for their feedback.

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Commented [CB1]: Town and School?

**Property Tax:** Real estate taxes on the increased value resulting from improvements are partially abated over a 15-to-25-year period. The annual payment in lieu of taxes (PILOT) will be between \$6,500 – \$12,000 \$6,500 per megawatt (MW) of the facility's actual generation, with a 2% increase each year. Host Community Benefit and Educational Contribution Agreements are permitted and may occur. PILOT and special agreement payments replace local, county, and school district taxes only; special district taxes are not eligible under the PILOT.

**Sales Tax:** Since SOLAR Projects generally do not produce any new jobs it will be the general policy of the WWIDA will be to not grant local Sales Tax Exemptions on SOLAR Projects (State tax is exempted). Exemption from State and local sales tax on project costs as outlined in the WWIDA Policies and Procedures. This policy may only be bypassed if the SOLAR project generates five (5) or more new jobs.

**Mortgage Recording Tax:** Since SOLAR Projects generally do not produce any new jobs it will be the general policy of the WWIDA will be to not grant Mortgage Recording Tax Exemptions on SOLAR Projects. This policy

| may only be bypassed if the SOLAR project generates five (5) or more new jobs. Exemption from mortgage recording tax as outlined in the WWIDA Policies and Procedures.

**Fees:** The applicant is responsible for paying fees as outlined in the WWIDA policies and Procedures.

**Other:** Unless specifically outlined in these guidelines, the applicant will be responsible for complying with all other rules and regulations as set forth in the WWIDA's Policies and Procedures.



Resolution No. \_\_\_\_\_  
Adopted \_\_\_\_\_

Introduced by \_\_\_\_\_  
who moved its adoption.

Seconded by \_\_\_\_\_

**RESOLUTION APPROVING OF THE MODIFICATION OF THE PROJECT AND INCREASE  
OF THE TOTAL PROJECT COSTS AND AUTHORIZED MORTGAGE RECORDING TAX  
EXEMPTION IN CONNECTION WITH THE FORT WILLIAM HENRY CORPORATION  
PROJECT**

WHEREAS, the Counties of Warren and Washington Industrial Development Agency (the "Agency") is a body corporate and politic duly organized and existing under Sections 856 and 890-c of the General Municipal Law ("GML") of the State of New York (the "State"), with its principal place of business at 5 Warren Street, Glens Falls, New York; and

WHEREAS, The Fort William Henry Corporation (the "Company") is a New York business corporation with an offices at 48 Canada Street, Lake George, New York; and

WHEREAS, the Agency and the Company entered into a Lease Agreement and related documents all dated as of April 13, 2022 in regard to a certain project (the "Project"), as more particularly defined therein; and

WHEREAS, the Company has previously modified the scope of its Project and on November 2, 2022 the Agency approved an increase of the total cost of the Project to \$6,458,150.00, as said scope was modified, and authorized increases of the authorized sales tax exemptions and mortgage recording tax exemptions; and

WHEREAS, the Company has indicated that the total Project costs have exceeded the prior estimate and are not estimated at \$7,933,500.00; and

WHEREAS, in order to complete the Project, the Company has made application to the Agency requesting that the Agency to increase the amount of the mortgage recording tax exemption; and

WHEREAS, the Agency is a state agency under Section 8-0105 of the Environmental Conservation Law of the State of New York and the Project is an action under Article 8 of said law (Article 8 hereinafter being referred to as the "State Environmental Quality Review Act" or "SEQRA") and under 6 NYCRR Part 617, §§ 617.2(b) and 617.3(g); and

WHEREAS, the Agency ratified the findings and Negative Declarations of the Village of Lake George Planning Board on February 22, 2022 and November 2, 2022, and in doing so, the Agency satisfied the requirements of Part 617 of Title 6 of the New York Code of Rules and Regulations and no further SEQRA review is required for the Project; and

WHEREAS, the Agency has not found the Company to be in default of any of the terms of the Lease Agreement or the PILOT Agreement; and

WHEREAS, the Agency has determined that a further public hearing as the additional financial assistance being sought does not exceed the statutory threshold.

**NOW, THEREFORE, BE IT RESOLVED**

1. That the Agency does hereby approve of an increase in the total Project cost in the amount of One Million Four Hundred Seventy Five Thousand Three Hundred Fifty Dollars (\$1,475,350.00) resulting in a total Project cost of Seven Million Nine Hundred Thirty Three Thousand Five Hundred Dollars (\$7,933,500.00).
2. That the Agency does hereby approve of an exemption from mortgage recording tax on eligible mortgages recorded in connection with the completion of this Project in an exemption amount not to exceed \$84,000.00.
3. That the Company shall be responsible for any fees, costs and expenses relating to this transaction, including the additional administrative fee due the Agency, based on the increase in the total project cost, Agency's legal fees and any other fees and expenses.
4. That the Agency does hereby authorize the Chair of the Agency, or the Vice Chair of the Agency, in the absence of the Chair, upon advice and consent of Agency Counsel, to execute and deliver on behalf of the Agency any and all documents necessary to consummate the transaction.
5. This Resolution shall take effect immediately.



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### ZONING AND LAND USE PLANNING

# Eligibility of Residential Developments for IDA Benefits

By  
Anthony S.  
Guardino



It has been nearly 50 years since the New York State Legislature enacted legislation authorizing industrial development agencies (IDAs) for the purpose of promoting economic development. Now, towns, cities, and counties throughout the state have created their own IDAs under General Municipal Law (GML) Article 18-A (the IDA Act) and use them to encourage—and to financially assist—a wide variety of real estate developments, often to great success.

In many instances, however, an IDA's efforts are met with objections, both in and out of court. Recently, for example, tax benefits afforded by a town's IDA to the Green Acres Mall on Long Island aroused community criticism, and led New York State Comptroller Thomas DiNapoli to announce that he would audit the IDA to determine its compliance with policies and procedures related to its approval of the project.

There also continues to be disputes over the scope of projects that may receive IDA benefits. Last August, the Supreme Court, Seneca County, rejected a challenge to a decision by the Seneca County IDA to provide tax benefits for a casino being built in the county. *Nearpass v. Seneca County Industrial Development Agency*, 53 Misc. 3d 737 (Sup.Ct. Seneca Co. 2016). The petitioners argued that the casino was not a project defined in the IDA Act and, therefore, that it was ineligible for IDA benefits. They pointed out, among other things, that when the IDA Act first was enacted, casinos were prohibited in New York, and after casinos were allowed by amendment to the New York Constitution, the IDA Act was not amended to include casinos as a project entitled to IDA benefits.

The court was not persuaded and decided, instead, that the casino facility was a commercial project under the IDA Act and, in particular, that it also was a recreation facility within the purview of GML Section 854(9).

Perhaps more surprising than a dispute over the eligibility of a casino to receive IDA benefits was a recent court case that asked whether a residential development could qualify for IDA benefits—an issue of statewide significance. In *Matter of Ryan v. Town of Hempstead Industrial Development Agency*, Index No. 5324/16 (Sup.Ct. Nassau Co. Jan. 27, 2017), the Supreme Court, Nassau County, held that a residential apartment building project fell within the definition of a project for which IDA benefits may be granted.

After first providing background on the IDA Act, this column will discuss the court's decision in *Matter of Ryan* and its implications.

### The IDA Act

When the legislation governing the creation, organization, and powers of IDAs in New York State was enacted in 1969, it provided that its general purpose was "to promote the economic welfare of [the state's] inhabitants and to actively promote, attract,

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encourage and develop economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration." This intent was further evidenced by the original provision of GML Section 858, which provided that:

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the state of New York and to improve their standard of living.

The decision by the Nassau County Supreme Court in *Matter of Ryan* provides confirmation that residential developments are eligible to receive industrial development agency benefits.

In approving the bill, then-Governor Nelson Rockefeller noted that "industrial development agencies provide one means for communities to attract new industry, encourage plant modernization and create new job opportunities." McKinney's 1969 Session Laws, Vol. 2, p. 2572.

The original legislation has been amended a number of times since 1969 to broaden the scope of permissible IDA activities. For example, the definition of project was expanded to specifically include construction of industrial pollution control facilities (L 1971, ch 978), winter recreation facilities and then recreation facilities generally (L 1974, ch 954; L 1977, ch 630), horse racing facilities (L 1977, ch 267), railroad facilities (L 1980, ch 803) and educational or cultural facilities (L 1982, ch 541).

As noted above, however, it has not been amended to specifically include casinos. And it also does not specifically include residential developments.

In 1985, however, the New York state comptroller's office was asked by the village attorney for the village of Port Chester whether construction of an apartment complex was a commercial purpose within the meaning of GML Section 854(4) and, thereby, whether it was a proper project for industrial development bond financing. In response, the Comptroller issued Opinion No. 85-51, 1985 N.Y. St. Comp. 70 (Aug. 16, 1985) (the "comptroller's opinion").

In the comptroller's opinion, the comptroller's office explained that, at its inception, the IDA Act's primary thrust was to promote the development of commerce and industry as a means of increasing employment opportunities.

The comptroller's opinion then reasoned that for an apartment complex to qualify as an eligible project under Article 18-A, it had to promote employment opportunities and prevent economic deterioration in the area served by the IDA.

The comptroller's opinion added that the comptroller's office was "not in a position to render an opinion" as to whether a project that consisted of the construction of an apartment complex was a commercial activity within the meaning of Article 18-A. Rather, it continued, such a determination "must be made by local officials based upon all the facts relevant to the proposed project."

Any such determination, the comptroller's opinion concluded, had to take into account the stated purposes of the IDA Act: "the promotion of employment opportunities and the prevention of economic deterioration."

When this issue reached the court in *Triple S. Realty v. Village of Port Chester*, Index No. 22355/86 (Sup. Ct. Westchester Co. Aug. 19, 1987), the Westchester County Supreme Court held that residential construction may be eligible for industrial development agency benefits if such construction "would increase employment opportunities and prevent economic deterioration in the area served by the IDA."

The decision by the Nassau County Supreme Court in *Matter of Ryan* provides further confirmation that



residential developments certainly are eligible to receive IDA benefits.

### 'Matter of Ryan'

The case arose after the Town of Hempstead Industrial Development Agency (TOHIDA) granted financial and tax benefits and assistance to Renaissance Downtowns UrbanAmerica, with respect to the construction of a new 336-unit residential apartment complex in the village of Hempstead on Long Island. That was Phase 1 of a multi-phase revitalization project that was planned to include additional mixed-use buildings and parking facilities.

The financial benefits and assistance granted by the TOHIDA included:

- exemptions from mortgage recording taxes for one or more mortgages;
- securing the principal amount not to exceed \$70 million;
- a sales and use tax exemption up to \$3.45 million in connection with the purchase/lease of building materials, services, or other personal property for the project; and
- abatement of real property taxes for an initial term of 10 years pursuant to a payment in lieu of taxes (PILOT) agreement.

Six petitioners, including a trustee for the village of Hempstead, challenged the TOHIDA's resolution in an Article 78 proceeding, arguing that an IDA could not grant benefits

for a project that was residential, either in whole or in part, in nature.

For their part, the respondents contended that the development of a residential rental building fell within the ambit of the statutory definition of a project entitled to receive an IDA's financial assistance and benefits in that it promoted "employment opportunities" and prevented "economic deterioration" in the area served by the IDA.

The court agreed with the respondents and dismissed the petition.

In its decision, the court noted that the comptroller's opinion had observed that the determination of whether construction of an apartment complex was a commercial activity within the meaning of the IDA Act had to be made by local officials based on facts relevant to the proposed project.

The court then pointed out that the TOHIDA had approved Renaissance's application for assistance with respect to the first phase of the revitalization project based on the TOHIDA's findings, that, among other things:

- the town of Hempstead was in need of attractive multi-family housing to retain workers in the town and attract new business;
- a healthy residential environment located in the town was needed to further economic growth;
- there was a lack of affordable, safe, clean multi-family housing within the town; and

- the facility would provide the nucleus of a healthy residential environment, and would be instrumental and vital in the further growth of the town.

Moreover, the court continued, the TOHIDA also found that the development of the first phase of the facility would "promote and maintain the job opportunities, health, general prosperity and economic welfare" of the town's citizens and "improve their standard of living."

Given that the project promoted employment opportunities and served to combat economic deterioration in the area served by the TOHIDA, the court upheld the TOHIDA's decision as rationally based and not arbitrary or capricious, an abuse of discretion, or an error of law.

### Conclusion

IDA benefits can play an important role in real estate development. For nearly five decades, they have benefited New Yorkers in numerous situations. As the comptroller's office and the courts have recognized, a project—including a residential project—that demonstrates that it promotes employment opportunities and prevents economic deterioration is eligible to receive IDA benefits.

On 12/12/22, a Public Hearing (PH) was conducted. linked here: <https://www.youtube.com/watch?v=dE8lobw00e8&t=2195s> Notations like (YT 7:50) point to 7 minutes 50 seconds into that video. The PH was required prior to the adoption of the proposed PILOT for a Solar Farm to be sited in Queensbury, Warren County, NY. A copy of the notice that was sent to the affected taxing districts is attached. The Warren-Washington Industrial Development Agency (WWIDA) has a Policy regarding these Solar farms which can be found here: [https://warren-washingtonida.com/wp-content/uploads/2018/07/June-2018-IDA-Board-Meeting-Minutes\\_0001.pdf](https://warren-washingtonida.com/wp-content/uploads/2018/07/June-2018-IDA-Board-Meeting-Minutes_0001.pdf). I have asked for any documents that might alter this Policy and none have been provided to date. Key in that Policy is the notion that it would be the Towns and not the WWIDA that would decide on how to handle a Solar proposal. 2 of the 3 affected taxing districts attended the PH and stated their reluctance to accept the proposed PILOT. The third had already stated in a letter to the developer and land owner that they were ready to negotiate, but never received a response. These local representatives had every reason to expect that their wishes would be respected. Also at the PH several key claims regarding the cost-benefit calculations were challenged and while some points were addressed, and found to be false or misleading, the document on the floor that contained those elements was not modified. After some debate, largely about whether or not the allegations of false, missing or misleading claims should be further examined or not rather than about the just stated local objections, a vote was taken and the unaltered PILOT agreement, as included in the attached PH notice, was adopted.

I can't even begin to explain how a cost-benefit ratio of 7.04% was determined (and neither could the Board) as when I pointed out the flaws at the public hearing (YT 36:00) and asked for an explanation I got nothing beyond that "this was the methodology we followed" (YT 57:30). Metaphorically speaking, that methodology added apples and oranges, which we were told yielded bananas. There has been no attempt to clarify that cost-benefit "methodology" I believe because it is indefensible. As there are no claimed jobs to be created and no new income streams, there clearly are no monetary benefits unless you assume that on a busy commercial thoroughfare and right next to a Walmart, there would be no other development on that lot. The owner of that lot has recently demonstrated to a judge that the lot is very valuable in a suit against the county and this should be examined. This analysis is a critical and mandatory element of any request for financial assistance per GMU § 859-a.

It is also stated on the spreadsheet presented to us at the Public hearing that there were zero dollars of "Other Public Funding", yet when questioned about that it was admitted that the State would be granting an exemption of 100% of their sales tax and there was no denial that the project would also take advantage of NYSERDA program funding and also the Federal 30% tax credit provisions. It should have been made more clear that in the end our taxes will not only pay for the bulk of the project cost, but that the project would then asked to be excused from paying their fair share of taxes to any of the taxing entities themselves, Federal, State or Local. Instead, it was clearly stated as zero on the PILOT agreement passed that day.



It was also stated at the PH that the original project cost estimate of roughly \$10,475,000 was increased to \$14,447,500 and duly noted as part of the questionable "benefit" calculation. However when figuring out the cost of the tax forgiveness that figure was not updated. With the updated figure the lost property taxes will increase by over 50%, meaning we will not be losing \$2.5 Million, but nearly \$4 Million. The assumed tax rates were not escalated over the 15 year period either, and even a modest 2% inflation rate would take that loss to well over \$4 Million. This is another example of how the document was and remains false and misleading in a meaningful way.

Even though there was discussion but no explanation of what was called a "flawed" methodology in determining the cost-benefit of the project and also that the resolution on the floor stated that there was \$0 of "Other Public Funding" and that at minute 48, Carson Weinand stated that there was additional public funding from at least 3 other sources, and that neither that entry nor the cost-benefit calculation was changed prior to the vote that was taken and for that reason alone it can be stated that the resolution, as passed, knowingly contained false and misleading information.

Property Taxes Calculation											
YEAR	Land Value + Improvements	School Tax rate	School Full Taxes	County Tax rate	County Full Taxes	Town Tax rate	Town Full Taxes	Full Taxes	PILOT	net exemption	
1	\$14,447,500	16.091	\$232,475	3.974	\$57,414	0.821	\$11,861	\$301,750	\$32,500	\$269,250	
2	\$14,447,500	16.413	\$237,124	4.053	\$58,563	0.837	\$12,099	\$307,785	\$33,150	\$274,635	
3	\$14,447,500	16.741	\$241,867	4.135	\$59,734	0.854	\$12,341	\$313,941	\$33,813	\$280,128	
4	\$14,447,500	17.076	\$246,704	4.217	\$60,929	0.871	\$12,587	\$320,220	\$34,489	\$285,731	
5	\$14,447,500	17.417	\$251,638	4.302	\$62,147	0.889	\$12,839	\$326,624	\$35,179	\$291,445	
6	\$14,447,500	17.766	\$256,671	4.388	\$63,390	0.906	\$13,096	\$333,157	\$35,883	\$297,274	
7	\$14,447,500	18.121	\$261,804	4.475	\$64,658	0.925	\$13,358	\$339,820	\$36,600	\$303,220	
8	\$14,447,500	18.484	\$267,040	4.565	\$65,951	0.943	\$13,625	\$346,616	\$37,332	\$309,284	
9	\$14,447,500	18.853	\$272,381	4.656	\$67,270	0.962	\$13,898	\$353,549	\$38,079	\$315,470	
10	\$14,447,500	19.230	\$277,829	4.749	\$68,615	0.981	\$14,175	\$360,620	\$38,841	\$321,779	
11	\$14,447,500	19.615	\$283,385	4.844	\$69,988	1.001	\$14,459	\$367,832	\$39,617	\$328,215	
12	\$14,447,500	20.007	\$289,053	4.941	\$71,388	1.021	\$14,748	\$375,189	\$40,410	\$334,779	
13	\$14,447,500	20.407	\$294,834	5.040	\$72,815	1.041	\$15,043	\$382,693	\$41,218	\$341,475	
14	\$14,447,500	20.815	\$300,731	5.141	\$74,272	1.062	\$15,344	\$390,346	\$42,042	\$348,304	
15	\$14,447,500	21.232	\$306,745	5.244	\$75,757	1.083	\$15,651	\$398,153	\$42,883	\$355,270	
			\$4,020,282				\$992,891	\$205,124	\$5,218,297	\$562,036	\$4,656,261
GTW 1/16/23								WWIDA estimate at PH	\$2,549,417		
								difference	\$2,106,844		
								% difference	54.8 %		
Local Benefits to CVE											
Property Taxes			\$4,656,261	Other Public Funding to CVE							
3% Sales Tax *			\$360,000	4% State sales tax *				\$480,000		Total Public	
Mortgage Tax			\$162,844	30% Federal Tax Credit				\$4,334,250		Funding	
estimates			\$5,179,105	NYSERDA programs **				\$4,575,000		estimate	
								\$9,389,250	\$14,568,355		

\* Sales tax based on estimated \$12 Million in material costs

\*\* NYSERDA adder based on 5 cents on 15\*6.1M KWh

Regarding Costs and Benefits: As the project includes no new jobs, the only monetary benefit that has been put forward is that over 15 years the PILOT will produce \$562,036 more than the undeveloped land, but that assumes that the parcel, with direct access to Quaker Rd, a busy commercial artery, would not otherwise be developed in that time frame. Note there is an issue with comparing payments over 15 years time series need to be discounted by the inflation rate. I did add a modest inflationary adder to the tax rates which was ignored. The clear and immediate costs of sales and mortgage tax revenues are (local) \$522,844 plus (state) \$480,000. In addition, there are incentives from NYSERDA estimated at over \$4 Million and federal tax credit also greater than \$4 Million though the WWIDA has failed to pin these numbers down and I am forced to estimate here.

The following remedy applies.

**New York Consolidated Laws, General Municipal Law - GMU § 859-a.  
Additional prerequisites to the provisions of financial assistance**

4.(i) a statement acknowledging that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any financial assistance and the reimbursement of an amount equal to all or part of any tax exemptions claimed by reason of agency involvement in the project.

5. Each agency shall develop, and adopt by resolution, uniform criteria for the evaluation and selection for each category of projects for which financial assistance will be provided. At a minimum, the criteria shall require that, for each project, the following must occur prior to the approval of the provision of financial assistance:

(a) an assessment by the agency of all material information included in connection with the application for financial assistance, as necessary to afford a reasonable basis for the decision by the agency to provide financial assistance for the project;

(b) a written cost-benefit analysis by the agency that identifies the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemptions to be provided; the amount of private sector investment generated or likely to be generated by the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; and the extent to which the proposed project will provide additional sources of revenue for municipalities and school districts; and any other public benefits that might occur as a result of the project;

Subsequent to the PH, several additional claims were found to be false..

Regarding claim that the 5MW system would reduce carbon by as much as 14,000 acres of forest:

Using conversion constants from <https://www.epa.gov/egrid/data-explorer> and <https://www.seia.org/initiatives/whats-megawatt>

A 5MW Solar Field in NY will generate  $5 \times 1.22$  or about 6.1 Million KWh of electricity annually. Also that NY gas powered plants generate 839.57lbs of CO<sub>2</sub> per MWh and that the average forest sequesters  $1.06 \times 2200$ lbs or about 2350 lbs of CO<sub>2</sub> per acre annually. Taken together, the proposed project would provide the same benefit as  $840 \times 6100 / 2350$  or about 2,200 acres which is a far cry from the 14,000 acres claimed at the Public hearing (YT 7:50).

Regarding claim that the 5MW system would supply enough energy to power 10,000 cars:



Using conversion constants from <https://us.sunpower.com/blog/2022/05/05/how-many-solar-panels-do-i-need-charge-my-electric-car> and <https://www.seia.org/initiatives/whats-megawatt>

A 5MW Solar Field in NY will generate  $5 \times 1.22$  or about 6.1 Million KWh of electricity annually. Also that a typical EV driving an average 14,000 miles a year will consume about 4666 KWh.

Taken together, the proposed project would power  $6,100,000 / 4666$  or about 1,310 cars which is even a further cry from the claimed environmental benefit of 10,000 cars (YT 54:30).

In a private conversation with Mr. Barton, he stated that he had contacted CVE and that they admitted that their calculations were mistaken and the stated benefits were much higher than their revised calculations.

Also on its face this statement as recorded by the newspaper can be seen to be ridiculous.

Carson Weinand, senior business developer for CVE, said that a benefit of sustainable energy is that customers could save 10% of their monthly energy bill, and low-income residents could save up to \$50,000 over 25 years.

For that to be true, each 'low-income' resident would have to be saving \$2000 a year and therefore spending \$20,000 a year for electricity, every year for 25 years. And no one picks that up? No one??

It can be said that mistakes happen, but if these were honest mistakes you would expect just as many mistakes that make the project look unfavorable as favorable. When they are all in the same direction it looks to be fraudulent, or at least misleading.

And consider this <https://www.downtoearth.org.in/news/energy/china-to-dominate-95-of-solar-panel-supply-chain-83651>. China presently controls 80% of the Solar panel supply chain and its grip is increasing. These panels, which will be untaxed, are being produced in a country that is adding coal fired power plants faster than anywhere else in the world. <https://www.newscientist.com/article/2317274-china-is-building-more-than-half-of-the-worlds-new-coal-power-plants/> In a final piece of irony, that is what we are supporting.

While a work in progress and subject to change, please include this in the record of this meeting and consider this a request to correct any false or misleading content in the inducement agreement and vote on it again. If not corrected prior to 4/1/23, this is also to serve as a notice of claim per GMU-880.

G. Travis Whitehead PE 1/17/2023