

Date: February 20, 2019

At a meeting of the Town of Brookhaven Industrial Development Agency (the “Agency”), held at 1 Independence Hill, 3rd Floor, Farmingville, New York 11738, on the 20th day of February, 2019, the following members of the Agency were:

Present: Frederick C. Braun, III  
Martin Callahan  
Gary Pollakusky  
Ann-Marie Scheidt  
Frank C. Trotta

Recused:

Absent: Felix J. Grucci, Jr.  
Scott Middleton

Also Present: Lisa M. G. Mulligan, Chief Executive Officer

After the meeting had been duly called to order, the Chairman announced that among the purposes of the meeting was to consider and take action on certain matters pertaining to a certain industrial development facility more particularly described below (ACE-Town Hall Solar, LLC 2018 Facility).

The following resolution was duly moved, seconded, discussed and adopted with the following members voting:

Voting Aye

Voting Nay

Braun  
Callahan  
Pollakusky  
Scheidt  
Trotta

RESOLUTION OF THE TOWN OF BROOKHAVEN INDUSTRIAL DEVELOPMENT AGENCY TAKING OFFICIAL ACTION TOWARD AUTHORIZING THE EXTENSION OF SALES TAX ABATEMENTS FOR ACE-TOWN HALL SOLAR, LLC FACILITY, AND THE EXECUTION OF RELATED DOCUMENTS.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 358 of the Laws of 1970 of the State of New York, as amended from time to time (collectively, the “**Act**”), the Town of Brookhaven Industrial Development Agency (the “**Agency**”) was created with the authority and power among other things, to assist with the acquisition of certain industrial development projects as authorized by the Act; and

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

WHEREAS, the Agency previously provided assistance to ACE-Town Hall Solar, LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware (the “**Company**”), in the acquisition of a long term ground leasehold interest in an approximately 4.0 acre portion of an approximately 41.89 acre parcel of land located at 1 Independence Hill, Farmingville, New York 11738 (more particularly described as Suffolk County Tax Map No. 0200-572.00-03.00-002.001) (the “**Land**”), owned by the Town of Brookhaven (the “**Town**”), and the construction of an approximately 3.5 acre solar array thereon (the “**Improvements**”), and the equipping thereof, including, but not limited to, approximately 4,017 345-watt solar modules, approximately seventeen (17) 60-kilowatt inverters, approximately one (1) 50-kilowatt inverter and approximately one (1) 23-kilowatt inverter, and the installation and connection of two (2) electric car charging stations (collectively, the “**Equipment**”; and together with the Land and the Improvements, the “**Facility**”) (collectively, the “**Project**”); and

WHEREAS, the Agency by resolution duly adopted on June 5, 2018 (the “**Original Authorizing Resolution**”), authorized the acquisition, construction and equipping of such facility and the execution and delivery of the Agency Documents (as defined therein); and

WHEREAS, the Company leased the Facility to the Agency pursuant to a Company Lease Agreement, dated as of August 1, 2018 (the “**Company Lease**”), between the Company and the Agency; and

WHEREAS, the Agency leased the Facility to the Company pursuant to a Lease and Project Agreement, dated as of August 1, 2018 (the “**Lease Agreement**”), between the Agency and the Company; and

WHEREAS, pursuant to Section 3.6 of the Lease Agreement, the Company agreed to complete the acquisition, construction and equipping of the Facility no later than March 30, 2019 (the “**Completion Date**”); and

WHEREAS, in order to complete the costs of the acquisition, construction and equipping of the Facility the Company has now requested that the Agency extend the expiration date of the Completion Date to June 30, 2019 (the “**Completion Date Extension**”); and

WHEREAS, to provide for the Completion Date Extension, the Agency and the Company will enter into a certain Letter Agreement, dated as of February 20, 2019, or such other date as may be determined by the Chairman, Chief Executive Officer and counsel to the Agency (the “**Letter Agreement**”), by and between the Agency and the Company; and

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

NOW, THEREFORE, BE IT RESOLVED by the Agency (a majority of the members thereof affirmatively concurring) as follows:

Section 1. The Agency hereby finds and determines:

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

(b) The Facility constitutes a “project”, as such term is defined in the Act; and

(c) The acquisition, construction and equipping of the Facility, the continued subleasing and leasing of the Facility to the Company, will promote and maintain the job opportunities, health, general prosperity and economic welfare of the citizens of Town of Brookhaven, and the State of New York and improve their standard of living and thereby serve the public purposes of the Act; and

(d) The acquisition, construction and equipping of the Facility is reasonably necessary to induce the Company to maintain and expand its business operations in the State of New York; and

(e) The Letter Agreement will be effective instruments whereby the Agency grants the Completion Date Extension to the Company.

Section 2. In consequence of the foregoing, the Agency hereby (i) approves the Completion Date Extension, (ii) approves the form and substance of the Letter Agreement, and (iii) authorizes the execution and delivery of the Letter Agreement and such other related documents as may be necessary or appropriate to effect the Completion Date Extension.

Section 3. Counsel to the Agency and Nixon Peabody LLP, Transaction Counsel to the Agency are hereby authorized and directed to prepare, for submission to the Agency, the Letter Agreement and all documents necessary to effect the Completion Date Extension described in the foregoing resolution.

Section 4. The Chairman, the Chief Executive Officer, and any member of the Agency are each hereby authorized and directed (i) to distribute copies of this resolution to the Company, and (ii) to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this resolution.

Section 5. This resolution shall take effect immediately.

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

I, the undersigned Secretary of the Town of Brookhaven Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of the minutes of the meeting of the Town of Brookhaven Industrial Development Agency (the “**Agency**”), including the resolutions contained therein, held on the 20th day of February, 2019, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolutions set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

That the Agency Documents contained in this transcript of proceedings are each in substantially the form presented to the Agency and/or approved by said meeting.

I FURTHER CERTIFY that public notice of the time and place of said meeting was duly given to the public and the news media in accordance with the New York Open Meetings Law, constituting Chapter 511 of the Laws of 1976 of the State of New York, that all members of said Agency had due notice of said meeting and that the meeting was all respects duly held.

IN WITNESS WHEREOF, I have hereunto set my hand as of the 20th day of February, 2019.

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