

**FINAL RESOLUTION**  
*(NY Benton I, LLC Project)*

A regular meeting of the Yates County Industrial Development Agency was convened on Wednesday, December 16, 2020.

The following resolution was duly offered by Rita Gow and seconded by Ryan Hallings, to wit:

Resolution No. 12/2020 - \_\_\_\_\_

RESOLUTION OF THE YATES COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE "AGENCY") (i) ACKNOWLEDGING THE PUBLIC HEARING HELD BY THE AGENCY ON OCTOBER 5, 2020, WITH RESPECT TO THE NY BENTON I, LLC PROJECT (AS DESCRIBED BELOW); (ii) MAKING A DETERMINATION WITH RESPECT TO THE PROJECT PURSUANT TO SEQRA (AS DEFINED BELOW); (iii) APPOINTING NY BENTON I, LLC AS AGENT OF THE AGENCY; (iv) AUTHORIZING FINANCIAL ASSISTANCE TO NY BENTON I, LLC IN THE FORM OF (A) A SALES AND USE TAX EXEMPTION FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF THE PROJECT, (B) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH A TAX AGREEMENT, AND (C) A MORTGAGE RECORDING TAX EXEMPTION AS PERMITTED BY LAW; AND (v) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, TAX AGREEMENT, MORTGAGE AND RELATED DOCUMENTS WITH RESPECT TO THE PROJECT.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the "State"), as amended, and Chapter 113 of the Laws of 1975 of the State of New York, as amended (hereinafter collectively called the "Act"), the **YATES COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **NY BENTON I, LLC**, for itself or on behalf of an entity formed or to be formed (the "Company"), previously submitted an application (the "Application") to the Agency, a copy of which is on file with the Agency, requesting the Agency's assistance with respect to a certain project (the "Project"), consisting of: (A) the acquisition by the Agency of a leasehold or other interest in certain property located at State Route 14A, Town of Benton, Yates County, New York (the "Land", being more particularly described as a portion of tax parcel No. 17.01-1-5, as may be subdivided); (B) the planning, design, construction and operation of a 5MWac solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Improvements"); and (C) the acquisition and installation in and around the

Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment"; and, collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the Act the Agency desires to adopt a resolution approving the Project and the Financial Assistance (as defined below) that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will (i) designate the Company as agent of the Agency for the purpose of undertaking the Project pursuant to a project agreement (the "Project Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a tax agreement (the "Tax Agreement") and related documents with the Company, (iii) take or retain title to or a leasehold interest in the Land, Improvements, Equipment and personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the Tax Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement, and (c) an exemption from the mortgage recording tax as authorized by the laws of the State for financing related to the Project (collectively, the "Financial Assistance"); and

WHEREAS, on August 19, 2020, the Agency adopted a resolution (the "Initial Resolution") accepting the Application and directing that a public hearing be held; and

WHEREAS, pursuant to Section 859-a of the Act, on Monday, October 5, at 9:00 a.m., local time via video conference, the Agency held a public hearing with respect to the Project and the proposed Financial Assistance being contemplated by the Agency (the "Public Hearing"), whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views; a copy of the Notice of Public Hearing posted on the Agency's website, a certificate attesting to the posting of the Notice of Public Hearing on the Agency's website and Minutes of the Public Hearing are attached hereto as **Exhibit A**; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act, Article 8 of the Environmental Conservation Law and the regulations adopted pursuant thereto at 6 N.Y.C.R.R. Part 617, as amended (collectively referred to as "SEQRA"), the Agency must satisfy the applicable requirements set forth in SEQRA, as necessary, prior to making a final determination whether to undertake the Project; and

WHEREAS, the Town of Benton Planning Board (the "Planning Board"), acting as "lead agency" (as such term is defined under SEQRA), undertook a "coordinated review" (as such term is defined under SEQRA) of the Project, determined that the Project was a "Type I Action" (as such term is defined under SEQRA) and on June 23, 2020, issued a "negative declaration" (as such term is defined under SEQRA) with respect to the Project (the "Negative Declaration"); and

WHEREAS, the Project Agreement, the Lease Agreement, the Leaseback Agreement, the Tax Agreement and related documents will be negotiated and presented to the Chairman, Vice Chairman or Chief Executive Officer of the Agency for approval and execution subject to the adoption of the resolutions herein.

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

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

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

(B) It is desirable and in the public interest for the Agency to appoint the Company as its agent for purposes of acquiring, constructing and equipping the Project; and

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

(D) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Yates County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(E) The Project will not result in the removal of a facility or commercial, industrial, or manufacturing plant of the Company or any other proposed occupant of the Project from one area of the State to another area of the State or result in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries; and

(F) The Planning Board has conducted a coordinated review of the Project pursuant to Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"). In addition to classifying the Project as a "Type I" pursuant to SEQRA, the Planning Board issued a Negative Declaration on June 23, 2020, determining that the Project did not present a potential significant adverse environmental impact. The Agency, having reviewed the materials presented by the Company, further determines that the Project does not pose a potential significant adverse environmental impact and thus ratifies the Negative Declaration previously issued by the Planning Board pursuant to 6 N.Y.C.R.R. § 617.7.

Section 2. The Public Hearing held by the Agency on October 5, 2020, concerning the Project and the Financial Assistance, was duly held in accordance with the Act, including, but not limited to, the giving of at least ten (10) days published notice of the Public Hearing (such notice also being provided to the Chief Executive Officer of each affected tax jurisdiction),

affording interested parties a reasonable opportunity, both orally and in writing, to present their views with respect to the Project.

Section 3. The Agency is hereby authorized to provide to the Company the Financial Assistance in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Project, (b) a partial real property tax abatement structured through the Tax Agreement, and (c) a mortgage recording tax exemption as permitted by State law.

Section 4. Based upon representations and warranties made by the Company in the Application, the Agency hereby authorizes and approves the Company, as its agent, to make purchases of goods and services relating to the Project, that would otherwise be subject to State and local sales and use tax in an amount up to **\$5,196,480**, which result in State and local sales and use tax exemption benefits ("Sales and Use Tax Exemption Benefits") not to exceed **\$415,718.40**. The Agency agrees to consider any requests by the Company for an increase to the amount of Sales and Use Tax Exemption Benefits authorized by the Agency upon being provided with appropriate documentation detailing the additional purchases of property or services.

Section 5. Pursuant to Section 875(3) of the Act, the Agency may recover or recapture from the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, any Sales and Use Tax Exemption Benefits taken or purported to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, if it is determined that: (i) the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, is not entitled to the Sales and Use Tax Exemption Benefits; (ii) the Sales and Use Tax Exemption Benefits are in excess of the amounts authorized to be taken by the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project; (iii) the Sales and Use Tax Exemption Benefits are for property or services not authorized by the Agency as part of the Project; or (iv) the Sales and Use Tax Exemption Benefits are taken in cases where the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, fails to comply with a material term or condition to use property or services in the manner approved by the Agency in connection with the Project. As a condition precedent of receiving Sales and Use Tax Exemption Benefits, the Company, its agents, consultants, subcontractors, or any other party authorized to make purchases for the benefit of the Project, shall (i) cooperate with the Agency in its efforts to recover or recapture any Sales and Use Tax Exemption Benefits, and (ii) promptly pay over any such amounts to the Agency that the Agency demands.

Section 6. Subject to the Company executing the Project Agreement and the delivery to the Agency of a binder, certificate or other evidence of liability insurance policy for the Project satisfactory to the Agency, the Agency hereby authorizes the Company to proceed with the acquisition, construction and equipping of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to acquire, reconstruct, renovate and equip the Project; (ii) to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency with the authority to delegate such agency, in

whole or in part, to agents, subagents, contractors, and subcontractors of such agents and subagents and to such other parties as the Company chooses; and (iii) in general, to do all things which may be requisite or proper for completing the Project, all with the same powers and the same validity that the Agency could do if acting in its own behalf; *provided, however*, the Project Agreement shall expire on **September 30, 2021** (unless extended for good cause by the Chief Executive Officer of the Agency) if the Lease Agreement, the Leaseback Agreement and the Tax Agreement contemplated have not been executed and delivered

Section 7. The Agency is hereby authorized to provide the Company with an exemption from mortgage recording taxes as permitted by New York State law in an amount not to exceed Forty-Four Thousand Three Hundred Twenty-Four and 31/100 Dollars (**\$44,324.31**).

Section 8. The Chairman, Vice Chairman or Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Project Agreement, (B) the Lease Agreement, pursuant to which the Company leases the Project to the Agency, (C) the related Leaseback Agreement, pursuant to which the Agency leases its interest in the Project back to the Company, and (D) the Tax Agreement; *provided, however*, (i) the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project and (ii) the terms of the Tax Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 9. The Chairman, Vice Chairman or Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to execute, deliver and record any mortgage, security agreement, UCC-1 Financing Statements and all documents reasonably contemplated by these resolutions or required by any lender identified by the Company (the "Lender") (collectively, the "Mortgage") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance the Facility or equipment and other personal property and related transactional costs (hereinafter, with the Project Agreement, Lease Agreement, Leaseback Agreement, Tax Agreement and the Mortgage, collectively called the "Agency Documents"); and, where appropriate, the Secretary or Assistant Secretary of the Agency is hereby authorized to affix the seal of the Agency to the Agency Documents and to attest the same, all with such changes, variations, omissions and insertions as the Chairman, Vice Chairman or Chief Executive Officer of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman or Chief Executive Officer of the Agency to constitute conclusive evidence of such approval; provided in all events recourse against the Agency is limited to the Agency's interest in the Project.

Section 10. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required and to execute and deliver all such certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with all of the terms, covenants and provisions of the documents executed for and on behalf of the Agency.

Section 11. These Resolutions shall take effect immediately upon adoption.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Gene Pierce	[ X ]	[ ]	[ ]	[ ]
Rita Gow	[ X ]	[ ]	[ ]	[ ]
Ryan Hallings	[ X ]	[ ]	[ ]	[ ]
Dr. Kim Williams	[ ]	[ ]	[ X ]	[ ]
Sirene Garcia	[ X ]	[ ]	[ ]	[ ]
William Holgate	[ ]	[ ]	[ X ]	[ ]
Janice Gaub	[ X ]	[ ]	[ ]	[ ]

The Resolutions were thereupon duly adopted.

**SECRETARY'S CERTIFICATION**  
*(NY Benton I, LLC Project)*

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

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


That I have compared the annexed extract of minutes of the meeting of the Yates County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on December 16, 2020, with the original thereof on file in the Agency's office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of said Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with such Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present throughout said meeting.

I FURTHER CERTIFY, that as of the date hereof, the attached resolution is in full force and effect and has not been amended, repealed or modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Agency this 16th day of December, 2020.

  
\_\_\_\_\_  
Secretary

**Exhibit A**

Notice Letter, Notice of Public Hearing,  
of Publication of *The Chronicle Express* and Minutes of Public Hearing

[Attached Hereto]



**NOTICE LETTER  
AND  
NOTICE OF CONTEMPLATED DEVIATION  
NY BENTON I, LLC PROJECT**

September 14, 2020

**VIA CERTIFIED MAIL**

To: Chief Executive Officers of  
Affected Taxing Jurisdiction Listed on Attached Schedule A

Re: Yates County Industrial Development Agency and NY Benton I, LLC:  
Public Hearing

Ladies and Gentlemen:

The Agency is contemplating providing financial assistance (the "Financial Assistance") to the Company in the form of (i) an exemption from mortgage recording taxes as permitted by New York State law, (ii) an exemption from sales and use taxes, each consistent with the Agency's Uniform Tax Exemption Policy (the "Policy"), and a partial tax abatement of real property taxes to be effectuated through the execution by the Agency and the Company of a payment-in-lieu-of-tax agreement (the "Tax Agreement").

On Monday, October 5, 2020, at 9:00 a.m., the Yates County Industrial Development Agency (the "Agency") will conduct a public hearing regarding the above-referenced project. Enclosed is a copy of the Notice of Public Hearing describing the project and the financial assistance being contemplated by the Agency. The Notice has been submitted to The Chronicle Express for publication.

At the public hearing referenced above, the Agency will consider the Project and the Financial Assistance, including the Tax Agreement, the terms of which are proposed to contain a deviation from the Agency's Policy. The Agency is contemplating a deviation from the Policy as follows: The Agency contemplates providing the Company with payments-in-lieu-of-taxes of \$4,225/MWac with a two percent (2%) increase per year for a period of thirty (30) years.

In accordance with Section 859-a of the Act, a representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application, which is also available for viewing on the Agency's website at:  
<https://www.fingerlakesedc.com/ny-benton-i-solar>

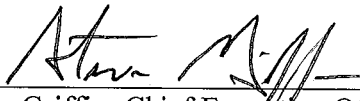
However, given the ongoing COVID-19 public health crisis and related Executive Orders issued by Governor Andrew M. Cuomo, the Agency will not be able to accommodate any in-person public attendance or participation at this hearing. Nonetheless, and in furtherance of the provisions of Section 859-a of the Act requiring interested parties be provided a reasonable opportunity, both

orally and in writing, to present their views with respect to the Project, the Agency will broadcast the Public Hearing live on (<https://fingerlakeseconomicdevelopmentcenter.my.webex.com/fingerlakeseconomicdevelopmentcenter.my/j.php?MTID=m013bc6f981f2f0921c75cad86cf26774>), a video conference, with written comments accepted on that platform in real time. In addition, the Agency will provide public access to provide oral comments in real time via conference bridge at telephone number: **+1-408-418-9388**, passcode **132 193 7148**. The Agency also encourages all interested parties to submit written comments to the Agency, which will be included within the public hearing record. Any written comments may be sent to the Agency, Attention: Steve Griffin, Chief Executive Officer, Yates County Industrial Development Agency, One Keuka Business Park, Suite 104, Penn Yan, New York 14527; Telephone: (315) 536-7328, no later than Monday, October 5, 2020.

The public hearing is being conducted pursuant to Section 859-a of the General Municipal Law. We are providing this notice to you, pursuant to General Municipal Law Section 859-a, as the chief executive officer of an affected tax jurisdiction within which the project is located.

Very truly yours,

YATES COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Steve Griffin, Chief Executive Officer

Enclosure

Schedule A

Chief Executive Officers  
of Affected Tax Jurisdictions

**Via Certified Mail**

**No. 7108 0360 0000 9156 7199**

Winona Flynn, Administrator/Treasurer  
Yates County Administrator  
417 Liberty Street, Suite 1002  
Penn Yan, New York 14527

**Via Certified Mail**

**No. 7108 0360 0000 9156 7205**

Doug Paddock, Chairman  
Yates County Legislature  
417 Liberty Street  
Penn Yan, New York 14527

**Via Certified Mail**

**No. 7018 0360 0000 9156 7212**

John Prendergast, Supervisor  
Town of Benton  
1000 Route 14A  
Penn Yan, New York 14527

**Via Certified Mail**

**No. 7018 0360 0000 9156 7243**

David Willson, Board of Education President  
Penn Yan Central School District  
1 School Drive  
Penn Yan, New York 14527

**Via Certified Mail**

**No. 7108 0360 0000 9156 7236**

Howard Dennis, Superintendent  
Penn Yan Central School District  
1 School Drive  
Penn Yan, New York 14527

**Via Certified Mail**

**No. 7018 0360 0000 9156 7250**

Cathleen Milliman  
Assistant Superintendent for Business  
Penn Yan Central School District  
1 School Drive  
Penn Yan, New York 14527

**Via Certified Mail**

**No. 7018 0360 0000 9156 7229**

Patricia Brede, Assessor  
Town of Benton  
1000 Route 14A  
Penn Yan, New York 14527

## NOTICE OF PUBLIC HEARING

**NOTICE IS HEREBY GIVEN** that a public hearing pursuant to Article 18-A of the New York General Municipal Law (the "Act") will be held by the Yates County Industrial Development Agency (the "Agency") on Monday, October 5, 2020, at 9:00 a.m., local time, in connection with the matter described below. **PLEASE NOTE THE SPECIAL PUBLIC HEARING LOGISTICS AND INSTRUCTIONS INCLUDED AT THE END OF THIS NOTICE.**

NY Benton I, LLC, for itself or on behalf of an entity to be formed (collectively, the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with respect to a certain project (the "Project") consisting of: (A) the acquisition by the Agency of a leasehold or other interest in certain property located at State Route 14A, Town of Benton, Yates County, New York (the "Land", being more particularly described as a portion of tax parcel No. 17.01-1-5, as may be subdivided); (B) the planning, design, construction and operation of a 5MWac solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Improvements"); and (C) the acquisition and installation in and around the Improvements of certain items of equipment, machinery and other tangible personal property (the "Equipment"; and, collectively with the Land and the Improvements, the "Facility").

The Agency will acquire a leasehold interest in the Facility and lease the Facility back to the Company. The Company will operate the Facility during the term of the lease. At the end of the lease term, the leasehold interests will be terminated. The Agency contemplates that it will provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction, and equipping of the Facility, (b) a real property tax abatement structured within a payment-in-lieu-of-tax agreement, and (c) a mortgage recording tax exemption for financing or re-financing related to the Project (collectively, the "Financial Assistance").

### **PLEASE NOTE SPECIAL PUBLIC HEARING CONDUCT INSTRUCTIONS AND INFORMATION:**

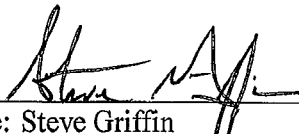
In accordance with Section 859-a of the Act, a representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application, which is also available for viewing on the Agency's website at: <https://www.fingerlakesedc.com/ny-benton-i-solar>.

However, given the ongoing COVID-19 public health crisis and related Executive Orders issued by Governor Andrew M. Cuomo, the Agency will not be able to accommodate any in-person public attendance or participation at this hearing. Nonetheless, and in furtherance of the provisions of Section 859-a of the Act requiring interested parties be provided a reasonable opportunity, both orally and in writing, to present their views with respect to the Project, the Agency will broadcast the Public Hearing live on a video conference (<https://fingerlakeeconomicdevelopmentcenter.my.webex.com/fingerlakeeconomicdevelopmentcenter.my/j.php?MTID=m05e33afb603ccbb8c437d84a5e02859a>), with written comments accepted on

that platform in real time. In addition, the Agency will provide public access to provide oral comments in real time via conference bridge at telephone number: **+1-408-418-9388**, passcode **132 007 3404**. The Agency also encourages all interested parties to submit written comments to the Agency, which will be included within the public hearing record. Any written comments may be sent to the Agency, Attention: Steve Griffin, Chief Executive Officer, Yates County Industrial Development Agency, One Keuka Business Park, Suite 104, Penn Yan, New York 14527; Telephone: (315) 536-7328, no later than Monday, October 5, 2020.

Dated: September 16, 2020

YATES COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By:   
Name: Steve Griffin  
Title: Chief Executive Officer

**LEGALS****NOTICE OF PUBLIC HEARING**

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**PLEASE NOTE SPECIAL PUBLIC HEARING CONDUCT INSTRUCTIONS AND INFORMATION:**

In accordance with Section 859-a of the Act, a representative of the Agency will be at the above-stated time and place to present a copy of the Company's project Application, which is also available for viewing on the Agency's website at: <https://www.fingerlakesedc.com/ny-benton-i-solar>.

However, given the ongoing COVID-19 public health crisis and related Executive Orders issued by Governor Andrew M. Cuomo, the Agency will not be able to accommodate any in-person public attendance or participation at this hearing. Nonetheless, and in furtherance of the provisions of Section 859-a of the Act requiring interested parties be provided a reasonable opportunity, both orally and in writing, to present their views with respect to the Project, the Agency will broadcast the Public Hearing live on a video conference (<https://fingerlakeseconomicdevelopmentcenter.mywebex.com/join?MTID=m05e33a1b603cbb8c437d84a5e02859a>), with written comments accepted on that platform in real time. In addition, the Agency will provide public access via conference bridge at telephone number: +1-408-418-9388, passcode 132 007 3404. The Agency also encourages all interested parties to submit written comments to the Agency, which will be included within the public hearing record. Any written comments may be sent to the Agency, Attention: Steve Griffin, Chief Executive Officer, Yates County Industrial Development Agency, One Keuka Business Park, Suite 104, Penn Yan, New York 14527; Telephone: (315) 536-7328, no later than Monday, October 5, 2020.

Dated: September 16, 2020

YATES COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Name: Steve Griffin  
Title: Chief Executive Officer

## Public Hearing Minutes – NY Benton I, LLC

Monday, October 5, 2020 – 9:00 A.M.

### Minutes of Proceedings

*As a result of the Novel Coronavirus (COVID-19) Emergency and the state ban on meetings or gatherings pursuant to Executive Order 220.10 issued on March 23, 2020, the suspension of the Open Meetings Law relating to public meetings pursuant to Executive Order 220.1 issued on March 12, 2020, as extended, and the authorization to hold public hearings by remote access pursuant to Executive Order 220.15 issued on April 9, 2020, as extended, the Public Hearing held on October 5, 2020 in connection with the matter described below was held electronically via conference call and video conference rather than in person.*

Present: Mike Lipari, Economic Development Specialist, Finger Lakes EDC, Mike Seppala, VP of Operations, Finger Lakes EDC.

The Public Hearing on the proposed straight leaseback transaction by the Finger Lakes Economic Development Center on behalf of NY Benton I, LLC was held remotely via Cisco WebEx on Monday, October 5, 2020 at 9:00 A.M. Members of the public were able to listen to, view, and participate in the Public Hearing and comment on the Project and the financial assistance requested by the Project applicant from the Agency by dialing in by telephone number: +1-408-418-9388 and entering access code 132 193 7148 or by joining this Public Hearing from your computer, tablet or smartphone via <https://fingerlakeseconomicdevelopmentcenter.my.webex.com/fingerlakeseconomicdevelopmentcenter.my/j.php?MTID=m013bc6f981f2f0921c75cad86cf26774>

The Public Hearing notice was published in the legal section of The Chronicle Express on September 23, 2020. The Notice of Public Hearing was also posted on the bulletin boards of the Yates County Courthouse and the Town of Benton Town Offices on September 16, 2020 and copies of the Notice were mailed to the taxing jurisdictions (Yates County, Town of Benton, Penn Yan Central School District) on September 16, 2020. The Notice of Public Hearing was also posted on the Finger Lakes Economic Development center website on September 16, 2020.

Mike Lipari, Economic Development Specialist for the Finger Lakes Economic Development Center, called the Public Hearing to order at 9:03 A.M.

Mr. Lipari reported that this is the second public hearing for NY Benton I, LLC. The first public hearing was held on September 14, 2020 at 9:00 A.M. After completion of the first public hearing, it was realized that there was an error in our notifications of Public Hearing. The Public Hearing Notice was posted on the Town of Milo bulletin board by mistake, it was supposed to be posted to the Town of Benton bulletin board. In order to correct the error, we let all the taxing jurisdictions know that we would be hosting a second public hearing. All taxing jurisdictions were mailed Notice of Public Hearing to be held on October 5, 2020. The Notice was posted on the Yates County Courthouse bulletin board and the Town of Benton Offices bulletin board. The notice of Public Hearing was published on our website and also published in the September 23, 2020 edition of the Chronicle Express.

Mr. Lipari gave an overview of the NY Benton I, LLC project. We are holding this Public Hearing for New York Benton I, LLC. NY Benton I, LLC is solely owned and operated by Delaware River Solar who has completed and operates several solar projects across NY State. NY Benton I, LLC has submitted an

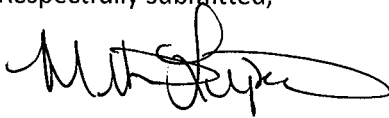
application for straight leaseback for their proposed 5-megawatt solar project in the town of Benton, located off of Route 14A. The straight leaseback application includes sales and use tax, mortgage tax, and property tax abatements. The proposed incentives exceed \$100,000 requiring us to hold this Public Hearing. The proposed 5-megawatt solar project would be a community solar project, power generated from the solar farm would be sold back to local businesses and residents, to those that choose to sign up. Signing up for solar typically provides customers with a discount on their normal energy bill. The total project cost is \$9,154,634. The proposed PILOT is a 30-year PILOT. The proposed PILOT deviates from our normal structure. As a result of the potential deviation, we have notified each of the affected taxing jurisdictions and provided opportunity for comment. At this time, no written or verbal comments on the deviation have been received. Total community investment or projected savings for this project is \$1,858,961. Proposed mortgage tax abatement is projected to be \$44,324, sales and use tax abatement is projected to be \$415,718 and the proposed property tax abatement is projected to be \$1,398,919 over the 30-year PILOT. NY Benton I, LLC has agreed to a proposed PILOT payment of \$4,225 per megawatt and includes a 2% increase to the PILOT payment each year. Total projected PILOT payments equal \$857,000 over 30-years. Total Economic Benefit of the project is the total capital investment of \$9,154,634 plus the proposed 30-year PILOT payments equaling a total of economic benefit of \$10,011,634. Comparing the total economic benefit to the total community investment of \$1,858,961 equals a 5:1 private to public investment ratio.

Mr. Lipari opened the hearing for any public comment. Mr. Lipari noted that comments can be made verbally through the virtual meeting or through the chat feature.

Mr. Lipari reported that there were no prior written comments received.

There being no other comments the Public Hearing was closed at 9:20 A.M. by Mr. Lipari

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Lipari", written in a cursive style.

Mike Lipari



**Exhibit B**

Negative Declaration of Planning Board

[Attached Hereto]

June 24, 2020

Via email: [Andrew.Steiner@agriculture.ny.gov](mailto:Andrew.Steiner@agriculture.ny.gov)

Andrew Steiner  
New York State Department of Agriculture & Markets  
10B Airline Drive  
Albany, NY 12235

**Re: Notice of Filing SEQR Negative Declaration for a Type I Action  
Delaware River Solar, LLC. – NY Benton I, LLC. Community Solar Farm Project  
Town of Benton, Yates County, New York**

Mr. Steiner,

With this letter, you are hereby notified that the Town of Benton Planning Board as Lead Agency under NYS Environmental Quality Review Act (SEQR), issued a "Negative Declaration of Significant Adverse Impact" at its meeting on June 23, 2020 for the proposed solar development at State Route 14A, Town of Benton, Yates County, NY.

The Town of Benton was not notified of an objection to its acting as lead agency by any involved agency within the statutory 30-day time period for this Type I Action, and has assumed the role of lead agency in accordance with the SEQR regulations. After reviewing SEQR Parts 2 & 3, the Town of Benton Planning Board passed a unanimous motion issuing a "Negative Declaration of Significant Adverse Environmental Impact." Pursuant to 6 NYCRR Part 617.12 (13)(l)(iii) of SEQR, the attached Negative Declaration documents are being filed with all SEQR involved agencies.

Please do not hesitate to contact me at (315) 719-3232 or via email at [Zoning@TownofBenton.us](mailto:Zoning@TownofBenton.us) with any questions.

Sincerely,

Tom Fulkrod  
Code Enforcement Officer, Town of Benton