

A regular meeting of the County of Saratoga Industrial Development Agency was convened via public session on December 12, 2023 at 8:30 a.m. (EST) at the Saratoga County Planning Department Offices, 50 West High Street, Ballston Spa, New York.

The meeting was called to order by the Chairman and, upon roll being called, the following were:

PRESENT:

Rodney Sutton	Chairperson
Philip Klein	Vice Chairperson
Tom Lewis	Secretary
Erinn Kolligian	Assistant Treasurer
Yvonne Manso	Member

ABSENT:

Michael Mooney	Treasurer
Kevin J. Tollisen	Member

ALSO PRESENT:

Scott Duffy	Agency CEO
Jeff Many	Agency CFO
Kimberly Lambert	Agency Administrator
James A. Carminucci, Esq.	Lemery Greisler LLC, Agency Counsel

The following resolution was offered by Mr. Lewis, seconded by Ms. Manso, to wit:

RESOLUTION # 1566

RESOLUTION APPROVING MODIFICATIONS TO THE ACTIVE SOLAR DEVELOPMENT, LLC, GRANTING FINAL APPROVAL WITH RESPECT THERETO, AND AUTHORIZING THE EXECUTION OF DOCUMENTS WITH RESPECT TO THE UNDERTAKING OF THE PROJECT.

WHEREAS, the County of Saratoga Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of the State of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of the State of New York, as amended (the “Enabling Act”), and Chapter 855 of the 1971 Laws of the State of New York, as amended, constituting Section 890-h of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

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

WHEREAS ES-TD Ventures, LLC, a New York limited liability company having an address of 2189 Cook Road, Galway, New York 12074 (the “Original Applicant”), has previously submitted an

application requesting that the Agency undertake a project (the “Project”) consisting of (A) (1) the acquisition of an interest in an approximately 4.62 acre parcel of land constituting tax map parcel 217.-32.1 and located at 2687 NYS Route 9 in the Town of Malta, New York (the “Land”), (2) the construction on the Land of an approximately 20,000 square foot facility (the “Facility”) to be leased to Active Solar Development, LLC (the “Tenant”), a residential and commercial solar development firm, to be utilized as its corporate headquarters and (3) the acquisition and installation in the Facility of certain machinery and equipment (the “Equipment” and together with the Land and the Facility, collectively the “Project Facility”), (B) the lease (with the obligation to purchase) or the sale of the Project Facility to the Applicant or such other person as may be designated by the Applicant and agreed upon by the Agency; and (C) the granting of “Financial Assistance” (as such term is defined in the Act) with respect thereto in the form of exemptions from state and local sales tax and mortgage recording taxes and real property taxes; and

WHEREAS, following the holding of a public hearing, by resolution duly adopted by the Agency on September 20, 2022 the Agency granted preliminary approval with respect to the undertaking of the Project, and made a determination with respect to the Project under Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of the State of New York, as amended, and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively, the “SEQR Act”) ; and

WHEREAS, the Agency has been advised that the scope of the Project has changed resulting in the downsizing of the Facility from 20,000 square feet to 12,605 square feet resulting in the following changes to the financial assistance being requested with respect to the Project:

Financial Assistance	Original	Revised
Estimated State and Local Sales Tax Exemption	\$159,425	\$129,500
Estimated Mortgage Recording Tax Exemption	\$31,753	\$24,990
Estimated Real Property Tax Exemption	\$432,810	\$456,194

WHEREAS, the Agency has been further advised by the Original Applicant that the Project will be undertaken by ES-TD Properties, LLC, a New York limited liability company (the “Applicant”) and an affiliate of the Original Applicant; and

WHEREAS, the Agency has been advised that financing for the Project shall be provided by a loan from Community Bank (the “Lender”) to the Applicant in the principal amount not to exceed \$2,800,000 (the “Loan”); and

WHEREAS, repayment of the Loan is to be secured by a mortgage from the Applicant and the Agency in favor of the Lender in the principal amount of \$2,800,000 encumbering the Project Facility (the “Mortgage”) and an assignment of leases and rents from the Applicant and the Agency (the “Assignment”); and

WHEREAS, in order to consummate the aforesaid Project, the Agency has been requested to enter into (a) an underlying lease by and between the Applicant and the Agency (the “Underlying Lease”), (b) a lease agreement (the “Lease Agreement”) by and between the Agency and the Applicant (the “Lease Agreement”), (c) a payment in lieu of tax agreement (the “PILOT Agreement”) by and between the Agency and the Applicant and (d) a project agreement by and between the Agency and the Applicant (the “Project Agreement”);

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

SECTION 1. The Agency hereby approves the modifications to the Project and the financial assistance being requested with respect thereto as well as the designation of the Applicant as the entity undertaking the Project.

SECTION 2. Each officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Mortgage, the Assignment, the Underlying Lease, the Lease Agreement, the PILOT Agreement and the Project Agreement (hereinafter collectively called the "Leasing Documents"), and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms previously executed and delivered by the Agency for similar-type transactions with such changes, variations, omissions and insertions as the officer so executing and counsel to the Agency shall approve, the execution thereof by such officer to constitute conclusive evidence of such approval

SECTION 2. The Agency is hereby authorized to acquire all of the real and personal property described in the Lease Agreement.

SECTION 4. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required or provided for by the provisions of the Leasing Documents, and to execute and deliver all such additional certificates, instruments and documents, to pay all such fees, charges and expenses and to do all such further acts and things as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Leasing Documents binding upon the Agency.

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

Rodney Sutton	VOTING AYE
Tom Lewis	VOTING AYE
Philip Klein	VOTING AYE
Erinn Kolligian	VOTING AYE
Yvonne Manso	VOTING AYE

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned Chairman of the County of Saratoga Industrial Development Agency (the “Agency”), DO HEREBY CERTIFY that I have compared the foregoing extract of the minutes of the meeting of the members of the Agency held on December 12, 2023, including the resolution contained therein, with the original thereof on file in my office, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respect duly held; (C) pursuant to Article 7 of the Public Officers Law (the “Open Meetings Law”), said meeting was open to the general public, and due notice of the time and place of said meeting was given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present throughout said meeting.

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

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, _____.

Chairman