

Motion By: Graydos  
Seconded By: Schreibers

**FINAL RESOLUTION**  
*(Danskammer Energy, LLC Project)*

A regular meeting of the Orange County Industrial Development Agency was held on February 13, 2020 at 2:00 p.m. (local time) at the Orange County Business Accelerator, 4 Crotty Lane, Suite 100, New Windsor, New York 12553.

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 proposed project for the benefit of Danskammer Energy, LLC.

RESOLUTION AUTHORIZING THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO (i) RETAIN A LEASEHOLD INTEREST IN AN AGGREGATE APPROXIMATELY 52±-ACRE PARCEL OF LAND LOCATED AT WEST HUDSON RIVER ROAD AND OLD POST ROAD, EACH IN THE TOWN OF NEWBURGH, ORANGE COUNTY, NEW YORK (THE "LAND"); (ii) NEGOTIATE AND EXECUTE A PROJECT AGREEMENT (OR AMENDMENT OF EXISTING PROJECT AGREEMENT), LEASE AGREEMENT (OR AMENDMENT OF EXISTING LEASE AGREEMENT), LEASEBACK AGREEMENT (OR AMENDMENT OF EXISTING LEASEBACK AGREEMENT) AND RELATED TAX AGREEMENT (OR AMENDMENT OF EXISTING TAX AGREEMENT); (iii) EXTEND THE TERM OF THE EXISTING TAX AGREEMENT TO DECEMBER 31, 2025; AND (iv) EXECUTE RELATED DOCUMENTS.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 390 of the Laws of 1972 of the State of New York, as amended (hereinafter collectively called the "Act"), the **ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called 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 civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **DANSKAMMER ENERGY, LLC** (the "Company"), for itself or on behalf of an entity to be formed, previously received Agency assistance with a certain project (the "Initial Project") consisting of (i) the acquisition by the Agency of a leasehold interest in an aggregate approximately 52±-acres of land located at West Hudson River Road and Old Post Road, each in the Town of Newburgh, Orange County, New York (the "Land", being more particularly described as TMID Nos. 8-1-78.2-1 and 8-1-80) together with the 6 existing generators located thereon comprising the Danskammer Power Station (the "Existing Improvements"), (ii) the repair or replacement "in kind" of the damaged components within the Existing Improvements (the "Improvements"); and (iii) the acquisition and installation in, on and around the Improvements of certain items of equipment and other tangible personal property

including, but not limited to, piping and valves, generators, pumps, electrical switchgear and various instrumentation (collectively, the "Equipment" and, together with the Land and the Improvements, the "Facility"), all for continued use as a power plant; and

WHEREAS, the Agency previously approved financial assistance to the Company for the Initial Project in the form of (a) a sales and use tax exemption for purchases and rentals related to the repair and equipping of the Facility, (b) a partial real property tax abatement structured within the Tax Agreement, and (c) if necessary, a mortgage recording tax exemption for financing or re-financing related to the Project (collectively the "Financial Assistance"); and

WHEREAS, the Company and the Agency entered into that certain Tax Agreement, dated as of December 1, 2014 (the "Original Tax Agreement"), under the terms of which the Company was to pay abated real property taxes to Orange County (the "County"), the Town of Newburgh (the "Town") and the Marlboro Central School District (the "School District" and, collectively with the County and the Town, the "Affected Taxing Jurisdictions"); said Original Tax Agreement expires on December 31, 2021; and

WHEREAS, the Company has submitted an application (the "Application") requesting the Agency to extend the term of the Tax Agreement to December 31, 2025; and

WHEREAS, pursuant to General Municipal Law Section 859-a, on January 31, 2020, at 10:00 a.m. local time, in the Meeting Room at the Newburgh Town Hall, 1496 Route 300, Newburgh, New York 12550, 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 Minutes of the Public Hearing along with the Notice of Public Hearing published and forwarded to the affected taxing jurisdictions ten (10) days prior to said 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 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA"), the Project constitutes a Type II action under SEQRA and therefore no review is required under SEQRA; and

WHEREAS, the Project Agreement (or amendment of existing Project Agreement), Lease Agreement (or amendment of existing Lease Agreement), Leaseback Agreement (or amendment of existing Leaseback Agreement), Tax Agreement (or amendment of existing Tax Agreement) and related documents have been negotiated and will be presented to the Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency subject to the approval of this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ORANGE 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 Company's

application and other correspondence submitted by the Company to the Agency, 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 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 Orange County 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 civic, 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 or any other proposed occupant of the Project located within the State; and the Agency hereby finds that, based on the Company's application, to the extent occupants are relocating from one plant or facility to another, the Project is reasonably necessary to discourage the Project occupants from removing such other plant or facility to a location outside the State and/or is reasonably necessary to preserve the competitive position of the Project occupants in their respective industries.

Section 2. The Agency hereby approves the extension of the term of the Tax Agreement to December 31, 2025.

Section 3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Lease Agreement (or amendment of existing Lease Agreement) whereby the Company leases the Project to the Agency and (B) the related Leaseback Agreement (or amendment of existing Leaseback Agreement) conveying the Project back to the Company; provided, that, 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.

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 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 5. This Resolution shall take effect immediately.

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

	<u><i>Yea</i></u>	<u><i>Nay</i></u>	<u><i>Absent</i></u>	<u><i>Abstain</i></u>
Mary Ellen Rogulski	✓			
Edward A. Diana			✓	
James DiSalvo			✓	
Stephen Brescia	✓			
Michael Gaydos	✓			
John McCarey	✓			
Robert J. Schreibeis, Sr.	✓			

The Resolution was thereupon duly adopted.

*[Remainder of Page Intentionally Left Blank]*

STATE OF NEW YORK )  
COUNTY OF ORANGE ) ss:

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

That I have compared the foregoing extract of the minutes of the meeting of the Orange County Industrial Development Agency (the "Agency") including the resolution contained therein, held on February 13, 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 relates 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 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 seal of said Agency this  
13 day of February, 2020.

  
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Stephen Brescia, Secretary

**Exhibit A**

**Public Hearing Minutes & Notice of Public Hearing**

**[See Attached]**

**Exhibit B**

**Negative Declaration Issued by the Village of Goshen Planning Board**

**[See Attached]**