

Motion By:
Seconded By:

Brescia
Van Jaenen

FINAL RESOLUTION
(CPV Valley, LLC Project)

A regular meeting of the Orange County Industrial Development Agency was held on June 12, 2014 at 2:00 p.m. (local time) at the offices of the Orange County Industrial Development Agency at the Orange County Business Accelerator, 4 Crotty Drive, New Windsor New York.

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 CPV Valley, LLC (the "Company").

RESOLUTION AUTHORIZING THE ORANGE COUNTY INDUSTRIAL DEVELOPMENT AGENCY TO (i) TAKE TITLE TO OR A LEASEHOLD INTEREST IN (A) AN APPROXIMATELY 122-ACRE PARCEL OF VACANT LAND LOCATED ON ROUTE 6 IN THE TOWN OF WAWAYANDA, ORANGE COUNTY, NEW YORK; (B) VARIOUS EASEMENTS COVERING, IN THE AGGREGATE, APPROXIMATELY 1.0 ACRES OF VACANT LAND LOCATED IN AND ALONG RT. 17M AND RT. 6 AND ON CERTAIN PROPERTY IN THE TOWN OF WAWAYANDA AND CITY OF MIDDLETOWN, ORANGE COUNTY, NEW YORK, AND (C) VARIOUS OTHER PROPERTY IN THE TOWN OF WAWAYANDA AND CITY OF MIDDLETOWN, ORANGE COUNTY, NEW YORK; (ii) APPOINT THE COMPANY AS ITS AGENT TO UNDERTAKE A CERTAIN PROJECT AS MORE FULLY DESCRIBED BELOW; (iii) NEGOTIATE AND EXECUTE A LEASE AGREEMENT, LEASEBACK AGREEMENT AND PILOT AGREEMENT; (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 THROUGH THE PILOT AGREEMENT; AND (C) A MORTGAGE RECORDING TAX EXEMPTION FOR FINANCING RELATED TO THE PROJECT; AND (v) 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, renovating and equipping civic, industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, **CPV VALLEY, LLC** (the "Company"), for itself or on behalf of an entity to be formed (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) (i) the acquisition by the Agency of fee title to, or a leasehold interest in, an approximately 122-acre parcel of vacant land located on Route 6 (Tax Map ID numbers: 4-1-38.33; 4-1-38.32; and 4-1-40.22) in the Town of Wawayanda, Orange County, New York (the "Fee Parcel"), (ii) the construction on the Fee Parcel of an approximately 80,000 square-foot combustion turbine building, an approximately 48,000 square-foot steam turbine building, an approximately 7,000 square-foot water treatment building, an approximately 300 square-foot fire water pump building, an approximately 2,000 square-foot gas meter enclosure (the "Fee Parcel Improvements") to be used by the Company to house and operate a nominally rated approximately 650-megawatt combined-cycle electrical generating facility ("Electric Generating Plant") and associated interconnection and other ancillary facilities, (iii) the acquisition of certain items of power generation and related equipment to include two combustion turbine generators, one steam turbine generator, two heat recovery steam generators and three generator step-up transformers; certain plant equipment to include an air cooled condenser, water treatment and process water pumps and tanks; certain power transmission equipment to include an electrical switchyard and transmission cable and pole structures; certain water supply and discharge equipment to include system piping and pumps, water treatment equipment and water discharge equipment; certain fuel supply system equipment to include system piping, pumps, compressors and meters; and other tangible personal property (the "Equipment"), (B) the acquisition by the Agency of a leasehold interest in various easements covering, in the aggregate, approximately 1.0 acres of vacant land located in and along Rt. 17M and Rt. 6 and on certain property owned by the City of Middletown (or agency thereof), including (Tax Map ID numbers: 5-5-18.1 and 64-1-1.1) in the Town of Wawayanda and City of Middletown, New York ("Easement Parcels") and the construction on portions of the Easement Parcels of certain transmission lines and equipment and an interconnection substation consisting of a gas insulated switchgear building and associated improvements and equipment (collectively, the "GIS Building"), and (C) the Agency's acquisition of leasehold interests or assignment of easement and license interests in various other property in the Town of Wawayanda and the City of Middletown and the construction within such easements and/or license of water, process water and/or sewer line improvements, pump station facilities, and wastewater treatment, which may include, among others, an approximately 2,000 square-foot water filtration building, all related to the Electric Generating Plant, including preliminarily, easements over land identified as Tax Map ID Number: 49-1-8 (the "Utility Line Easements and Improvements" and, collectively with the Fee Parcel, the Fee Parcel Improvements, the Equipment, the Easement Parcel, and the GIS Building, the "Facility"); and

WHEREAS, pursuant to General Municipal Law Section 859-a, (i) on August 12, 2013, at 10:00 a.m. local time, at the Wawayanda Town Hall, 80 Ridgebury Hill Road, Slate Hill, New York 10973, and (ii) on August 12, 2013, at 2:05 p.m. local time, at the Middletown Thrall Library, 11-19 Depot Street, Middletown, New York 10940, the Agency held public hearings with respect to the Project and the proposed financial assistance being contemplated by the Agency (collectively, the "Public Hearing") whereat interested parties were provided a reasonable opportunity, both orally and in writing, to present their views. A copy of the respective Minutes of the Public Hearing along with the respective 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, it is contemplated that the Agency will (i) designate the Company as its agent for the purpose of undertaking the Project pursuant to an agent agreement (the "Agent Agreement"), (ii) negotiate and enter into a lease and assignment of easements agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company, (iii) take title to or a leasehold interest in the Fee Parcel, the Fee Parcel Improvements, the Equipment, the Easement Parcel, the GIS Building, Utility Line Easements and Improvements and personal property constituting the Project (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iii) 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, renovation and equipping of the Project, (b) a partial real property tax abatement through the PILOT Agreement, and (c) a mortgage recording tax exemption for financing related to the Project; and

WHEREAS, the proposed benefits to be provided to the Company under the PILOT Agreement will deviate from the Agency's Uniform Tax Exemption Policy established pursuant to the Act (the "PILOT Deviation") and, as a result, in compliance with Section 874 of the Act, the Agency has mailed or delivered written notification of the PILOT Deviation to the chief executive officer of each affected tax jurisdiction, a copy of said notification is attached hereto as **Exhibit B**; and

WHEREAS, on June 25, 2008, the Planning Board of the Town of Wawayanda (the "Planning Board") issued a positive declaration (the "Positive Declaration") under Article 8 of the Environmental Conservation Law and 6 N.Y.C.R.R. Part 617 (collectively referred to as "SEQRA") regarding the Project, a copy of which is attached hereto as **Exhibit C**; and

WHEREAS, as a result of the issuance of the Positive Declaration, both a Draft Environmental Impact Statement and Final Environmental Impact Statement was prepared for the Project, and on May 23, 2012, the Planning Board adopted a resolution wherein a Findings Statement was issued for the Project pursuant to SEQRA; and

WHEREAS, the Lease Agreement, Leaseback Agreement, PILOT Agreement and related documents have been negotiated and are presented to this meeting for approval and execution.

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 undertaking 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; and

(F) Based upon a review of the Application, the Positive Declaration, the Draft and Final Environmental Impact Statements, and the Findings Statement issued by the Planning Board on May 23, 2012 for the Project pursuant to SEQRA, the Agency hereby:

(i) determines that the proceedings undertaken by the Planning Board as Lead Agency regarding the Project satisfied the requirements of SEQRA;

(ii) ratifies the conclusions and mitigation measures set forth in the Findings Statement issued by the Planning Board for the Project on May 23, 2012; and

(iii) determines that all of the provisions of SEQRA that are required to be complied with as a condition precedent to the approval of the Financial Assistance contemplated by the Agency with respect to the Project and the participation by the Agency in undertaking the Project have been satisfied.

(H) The Agency is following its policy concerning the PILOT Deviation as set forth in paragraphs A, B and E of its Uniform Tax Exemption Policy revised February 15, 2012, and has considered the factors detailed in the PILOT Deviation notice attached hereto as **Exhibit B**.

Section 2. Subject to the Company executing the Agent 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 undertaking of the Project and hereby appoints the Company as the true and lawful agent of the Agency: (i) to undertake 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 Agent Agreement shall expire on December 31, 2016 (unless extended for good cause by the Executive Director of the Agency) if the Lease Agreement, Leaseback Agreement and PILOT Agreement contemplated have not been executed and delivered.

Section 3. 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 New York State and local sales and use tax in an amount up to \$900,000,000, which result in New York State and local sales and use tax exemption benefits ("sales and use tax exemption benefits") not to exceed \$7,470,000. The Agency agrees to consider any requests by the Company for 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. Pursuant to Section 875(3) of the New York General Municipal Law, 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 4. The Chairman, Vice Chairman and/or the Executive Director of the Agency are hereby authorized, on behalf of the Agency, to negotiate and execute (A) the Lease Agreement whereby the Company leases the Project to the Agency, (B) the related Leaseback Agreement conveying the Project back to the Company, and (C) the PILOT Agreement, which

shall contain the terms of the agreed-upon PILOT Deviation; provided, that, (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 PILOT Agreement are consistent with the Agency's Uniform Tax Exemption Policy or the procedures for deviation have been complied with.

Section 5. The Chairman, Vice Chairman and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver any mortgage, assignment of leases and rents, 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") up to a maximum principal amount necessary to undertake the Project, acquire the Facility and/or finance or refinance equipment and other personal property and related transactional costs (hereinafter, with the Lease Agreement, Leaseback Agreement and PILOT Agreement are collectively referred to as, the "Agency Documents") and disbursements incurred by the Agency in connection with such refinancing; 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 and/or Executive Director of the Agency shall approve, the execution thereof by the Chairman, Vice Chairman and/or Executive Director 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. The Company shall be authorized to refinance any indebtedness incurred in connection with the Project and record a new mortgage exempt from the recording tax subject to the Company's payment to the Agency of a refinance fee equal to twenty-five (25) basis points of the principal indebtedness refinanced (with a refinance fee cap of \$250,000) plus all applicable legal fees.

Section 6. 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 7. These Resolutions 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>
Robert T. Armistead	✓			
Mary Ellen Rogulski	✓			
Russell O. Vernon	✓			
Stephen Brescia	✓			

John Steinberg, Jr.	✓			
Henry VanLeeuwen	✓			
Robert J. Schreibeis, Sr.	✓			

The Resolutions were thereupon duly adopted.

STATE OF NEW YORK)
COUNTY OF ORANGE) ss:

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

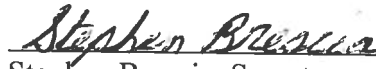
That I have compared the foregoing extract of the minutes of the meeting of the Orange
County Industrial Development Agency (the "Agency") including the resolution contained
therein, held on June 12, 2014, with the original thereof on file in my office, and that the same is
a true and correct copy of the proceedings of the Agency and of such 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 12th
day of June, 2014.



Stephen Brescia, Secretary

Exhibit A

Notice Documents & Minutes of Public Hearing

[See Attached]

Exhibit B

PILOT Deviation Notification

[See Attached]

Exhibit C

SEQRA Materials

[See Attached]