RESOLUTION

(SUN8 PDC LLC – 2150 Dryden Road Project)

A regular meeting of the Tompkins County Industrial Development Agency was convened in public session on Wednesday, January 10, 2018 at 9:00 a.m., local time, at 121 E. Court Street, Ithaca, New York 14850.

The meeting was duly called to order by the Chair, with the following members being:

PRESENT: Martha Robertson, Jennifer Tavares, Grace Chiang, Rich John, Svante Myrick

ABSENT:

ALSO PRESENT:

On motion duly made and seconded, the following resolution was placed before the members of the Tompkins County Industrial Development Agency:

RESOLUTION OF THE TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY (i) ACKNOWLEDGING, WITH RESPECT TO THE PROJECT (AS DEFINED BELOW), (a) THE ACCEPTANCE OF THE APPLICATION (AS DEFINED BELOW) AND (b) THE AUTHORIZATION OF THE PUBLIC HEARING (AS DEFINED BELOW); (ii) ACKNOWLEDGING AND ADOPTING THE NEGATIVE DECLARATION ISSUED BY THE DRYDEN TOWN BOARD PURSUANT TO ARTICLE 8 OF THE ENVIRONMENTAL CONSERVATION LAW AND 6 N.Y.C.R.R. PART 617; (iii) AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF AN AGENT, FINANCIAL ASSISTANCE AND PROJECT AGREEMENT, LEASE AGREEMENT, LEASEBACK AGREEMENT, PILOT AGREEMENT AND RELATED DOCUMENTS; (iv) DESCRIBING AND AUTHORIZING THE FINANCIAL ASSISTANCE TO THE COMPANY IN THE FORM OF (a) A SALES AND USE TAX EXEMPT FOR PURCHASES AND RENTALS RELATED TO THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT, (b) A REAL PROPERTY TAX ABATEMENT STRUCTURED THROUGH THE PILOT AGREEMENT AND (c) AN EXEMPTION FROM MORTGAGE RECORDING TAXES IMPOSED ON THE FINANCING RELATED TO THE PROJECT; AND (v) AUTHORIZING THE EXECUTION AND DELIVERY OF A MORTGAGE AND RELATED DOCUMENTS.

WHEREAS, by Title I of Article 18-A of the General Municipal Law of the State of New York (the "State"), duly enacted into law as Chapter 1030 of the Laws of 1969 of the State, as amended, and Chapter 535 of the Laws of 1971 of the State of New York as amended and

codified as Section 895-b of the General Municipal Law (collectively, the "Act"), the **TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to acquire, construct, renovate, reconstruct, lease, improve, maintain, equip and sell land and any building or other improvement, and all real and personal properties, including, but not limited to, machinery and equipment deemed necessary in connection therewith, whether or not now in existence or under construction or renovation, which shall be suitable for manufacturing, warehousing, research, commercial or industrial facilities, in order to advance job opportunities, health, general prosperity and the economic welfare of the people of the State and to improve their standard of living; and

WHEREAS, **SUN8 PDC LLC**, for itself or on behalf of an entity formed or to be formed by it or on its behalf (the "Company"), previously submitted an application (as the same may be modified or supplemented from time to time, 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: (i) the acquisition by the Agency of title to or a leasehold interest in certain land located at 2150 Dryden Road, Town of Dryden, Tompkins County, New York (being tax map number 38.-1-3.1), as the same may be subdivided, containing in the aggregate approximately fifty-four (54) acres after subdivision (the "Land"); (ii) the construction on the Land of $10MW_{AC}$ of community solar projects, which will include, but not be limited to, the removal of certain trees, the installation of PV modules on metal racks or tables with driver/screwed-in foundations, the installation of 15' x 20' concrete pads (for the installation of electrical equipment to connect to the utility), and the installation of one (1) or more eight(8)-foot chain link fences and internal project roads (collectively, the "Improvements"); and (iii) the acquisition and installation in and around the Improvements of certain items of machinery, equipment and other items of tangible personal property (the "Equipment"; and, collectively with the Land and the Improvements, the "Facility"); all to generate clean electricity to be sold to residential and commercial customers; and

WHEREAS, pursuant to Article 18-A of the Act, the Agency desires to adopt a resolution describing the Project and the Financial Assistance (as such term is 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 an agent, financial assistance and project agreement (the "Agent Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), a leaseback agreement (the "Leaseback Agreement"), a payment-in-lieu-of-tax agreement (the "PILOT Agreement") and related documents with the Company, (iii) take or retain title to, or a leasehold interest in, the Land, the Improvements, the Equipment and the personal property constituting the Project (once the Lease Agreement, the Leaseback Agreement and the PILOT Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exempt for purchases and rentals related to the acquisition, construction, reconstruction, renovation and equipping of the Project, (b) a real property tax abatement structured though the PILOT Agreement and (c) an exemption from mortgage recording taxes imposed on the financing related to the Project by the State (but not as to those taxes imposed on the financing related to the Project by Tompkins

County, New York) ((a), (b) and (c) are hereinafter collectively referred to as the "Financial Assistance"); and

WHEREAS, on April 13, 2017, the Agency, by duly approved motion, accepted the Application and directed that a public hearing be held; and

WHEREAS, pursuant to Section 859-a of the Act, on Tuesday, May 9, 2017, at 6:00 p.m., local time, at the Dryden Town Hall, 93 East Main Street, Dryden, New York 13053, 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 reasonably opportunity, both orally and in writing, to present their views; 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 Dryden Town Board, acting as "lead agency" (as such quoted term is defined under SEQRA), classified the Project as a "Type I" action (as such quoted term is defined under SEQRA), conducted a coordinated review of the Project and issued a "negative declaration" (as such quoted term is defined under SEQRA) with respect to the Project; and

WHEREAS, the Company has requested that the Agency provide benefits under the PILOT Agreement that would deviate from the Agency's Uniform Tax Exemption Policy in the following respect: the real property tax abatement, afforded by the Agency to the Company in accordance with the PILOT Agreement will be for a term of thirty (30) years and provides for a fixed annual payment of $6,000 per MW_{AC}, increasing annually by two percent (2%), after which the Facility will be subject to full real property taxes; and

WHEREAS, pursuant to Section 874 of the Act, the Agency provided notice of its intention to deviate from its Uniform Tax Exemption Policy by letters dated April 28, 2017 (the "Deviation Letter"), mailed or delivered to Tompkins County, New York, the Town of Dryden, New York, the Dryden Central School District and the Ithaca City School District (collectively, the "Affected Tax Jurisdictions"); and

WHEREAS, none of the Affected Tax Jurisdictions have provided any comments to the Agency; and

WHEREAS, the Agent Agreement, the Lease Agreement, the Leaseback Agreement, the 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 TOMPKINS COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. The Company has presented the Application in a form acceptable to the Agency. Based upon 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 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 Tompkins 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 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 (1) 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 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 Project involves a Type I action and the Dryden Town Board (the "Town Board"), acting as lead agency and having undertaken a coordinated review, issued a negative declaration with respect to the Project on July 20, 2017 (the "Negative Declaration"); the Agency acknowledges the "hard look" taken by the Town Board with respect to the Project and hereby ratifies the Negative Declaration issued by the Town Board. The Agency further determines that all of 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 have been satisfied.

Section 2. The Public Hearing held by the Agency on May 9, 2017, 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 the Affected Tax Jurisdictions), 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 exempt for purchases and rentals related to the

acquisition, construction, reconstruction, renovation and equipping of the Project, (b) a real property tax abatement structured though the PILOT Agreement and (c) an exemption from mortgage recording taxes imposed on the financing related to the Project by the State (but not as to those taxes imposed on the financing related to the Project by Tompkins County, New York).

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 New York State and local sales and use tax in an amount up to **$9,631,179**, which result in New York State and local sales and use tax exempt benefits ("sales and use tax exemption benefits") not to exceed **$770,494**. 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. 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, 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 5. 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 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 Agent Agreement shall expire on **January 10, 2020** (unless extended for good cause by the Chair, Vice Chair or Administrative Director of the Agency) if the Lease Agreement, the Leaseback Agreement and the Tax Agreement contemplated have not been executed and delivered.

Section 6. The Chair (or Vice Chair) or Administrative Director of the Agency is hereby authorized, on behalf of the Agency, to negotiate and enter into (A) the Agent 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 PILOT Agreement, *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 7. The Chair (or Vice Chair) or Administrative 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/financial institution identified by the Company, and, where appropriate, the Secretary of the Agency is hereby authorized to affix the seal of the Agency to such documents and to attest the same, all with such changes, variations, omissions and insertions as the Chair (or Vice Chair) or Administrative Director of the Agency shall approve, the execution thereof by the Chair (or Vice Chair) or Administrative Director of the Agency to constitute conclusive evidence of such approval; *provided, that*, in all events recourse against the Agency is limited to the Agency's interest in the Facility.

Section 8. The Agency's approval of the PILOT Agreement, after due consideration, is consistent with the Deviation Letter transmitted by or on behalf the Agency on or about April 28, 2017, to each of the Affected Tax Jurisdictions and shall provide a partial abatement from real property taxes with respect to the Facility for a term of thirty (30) years with a fixed annual payment of $6,000 per MW_{AC}, increasing annually by two percent (2%), after which the Facility will be subject to full real property taxes. The Agency's approval of the abatement and related deviation from the Agency's policy have been provided to induce the Company to undertake the Project in the Town of Dryden, Tompkins County, New York, which, among other things, will result in (i) the expansion and retention of employment opportunities in Tompkins County, New York and (ii) the provision of clean electricity to be sold to residential and commercial customers. None of the Affected Tax Jurisdictions have provided any comments to the Agency.

Section 9. 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 office, 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 10. All actions heretofore undertaken by the Agency with respect to the foregoing are hereby ratified and approved.

Section 11. Due to the complex nature of this transaction, the Agency hereby authorizes its Chair (or Vice Chair) or Administrative Director to approve, execute and deliver on behalf of the Agency, such further agreements, documents and certificates as the Agency may be advised by Counsel to the Agency to be necessary or desirable to effectuate the foregoing, such approval to be conclusively evidenced by the execution of any such agreements, documents or certificates by the Chair (or Vice Chair) or Administrative Director of the Agency.

Section 12. These Resolution shall take effect immediately.

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

	Yea	Nay	Abstain	Absent
Martha Robertson	[✓]	[ ]	[ ]	[ ]
Svante Myrick	[✓]	[ ]	[ ]	[ ]
Grace Chiang	[✓]	[ ]	[ ]	[ ]
Jennifer Tavares	[✓]	[ ]	[ ]	[ ]
Richard John	[✓]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

SECRETARY'S CERTIFICATION

(SUN8 PDC LLC –2150 Dryden Road Project)

STATE OF NEW YORK)
COUNTY OF TOMPKINS) SS:

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

That I have compared the annexed extract of the minutes of the meeting of the Tompkins County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on January 10, 2018, 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 related to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of the 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 Directors 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 10 day of January, 2018.

Secretary

[SEAL]