

**PILOT DEVIATION NOTICE RESOLUTION
KCE NY 2, LLC**

A regular meeting of the Town of Montgomery Industrial Development Agency (the "Agency") was convened in public session at the office of the Agency located at 110 Bracken Road in the Town of Montgomery, Orange County, New York on September 12, 2022 at 1:00 p.m., local time.

The meeting was called to order by the Chair of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

Jeffrey D. Crist	Chairperson
John Dickson	First Vice Chairperson
Matthew P. Stoddard	Treasurer
Robert Santo	Member
George DeClue	Member

ABSENT:

J. Thomas Jones	Second Vice Chairperson
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Felicia Kalan	Executive Director
Ashley Torre	Agency Counsel

The following resolution was offered by John Dickson, seconded by Robert Santo, to wit:

Resolution No. 0922-2

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO SEND A LETTER TO THE CHIEF EXECUTIVE OFFICERS OF THE AFFECTED TAX JURISDICTIONS INFORMING THEM OF A PROPOSED DEVIATION FROM THE TOWN OF MONTGOMERY INDUSTRIAL DEVELOPMENT AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED PROJECT TO BE UNDERTAKEN FOR THE BENEFIT OF KCE NY 2, LLC.

WHEREAS, the Town of Montgomery Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws

of New York, as amended (the “Enabling Act”) and Chapter 527 of the 1971 Laws of New York, as amended, constituting Section 911-c 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 manufacturing, warehousing, research, commercial and industrial 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, reconstruct and install one or more “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, on August 23, 2022, KCE NY 2, LLC, a New York limited liability company (the “Company”), submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 8.03 acre parcel of land located at 364 Browns Road in the Town of Montgomery, Orange County, New York (tax map number 26-1-57.221) (the “Land”), (2) the construction on the Land of a 169-megawatt (MW) battery energy storage facility comprised of battery energy containers, inverter and transform containers and a project substation (the “Facility”), and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other personal property (collectively, the “Equipment”), all of the foregoing to constitute a battery storage facility (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by Resolution adopted by the members of the Agency on September 12, 2022, (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, in connection with the Application, the Company has made a request to the Agency (the “PILOT Request”) to deviate from its Uniform Tax Exemption Policy (the “Policy”) with respect to the payments to be made under a payment in lieu of tax agreement by and between the Agency and the Company (the “Proposed PILOT Agreement”); and

WHEREAS, pursuant to the PILOT Request, the Company is seeking a Proposed PILOT Agreement that would be for a term of 15 years consistent with solar and small energy projects, since

Section 8.E(7) of the Policy does not specifically include battery energy storage systems, with payments as more particularly outlined in the Appendix B to the Application; and

WHEREAS, the reasons for the proposed deviation include, but are not necessarily limited to, the following: (1) the Project will help the local utility company to provide reliable electricity to electric customers (residential and commercial); (2) the Company will invest approximately \$132 Million into the Project; (3) the Project will provide an annual host community payment that is coterminous with the PILOT; (4) the Project will help achieve the State's renewable energy goals and provide other benefits to the Town of Montgomery as set forth in Appendix C and D to the Application; and

WHEREAS, in support of the proposed deviation, the Agency will consider the following factors prior to approving the proposed deviation from the Policy:

- (1) the magnitude and/or importance of any permanent private sector job creation and/or retention related to the proposed project in question;
- (2) the impact of such project on existing and proposed businesses and/or economic development projects;
- (3) the amount of private sector investment generated or likely to be generated by such project;
- (4) demonstrated public support for such project;
- (5) the estimated value of the Tax Exemptions requested; and
- (6) the extent to which such project will provide needed services and/or revenues to the Affected Tax Jurisdictions; and

WHEREAS, pursuant to Section 874(4) of the Act and the Agency's Policy, prior to taking final action on such request for a deviation from the Agency's Policy, the Agency must give the chief executive officers of the County and each city, town, village and school district in which the Project Facility is located (collectively, the "Affected Tax Jurisdictions") no fewer than thirty (30) days prior written notice of the proposed deviation from the Agency's Policy and the reasons therefor; and

WHEREAS, pursuant to Section 858(15) of the Act, unless otherwise agreed by the Affected Tax Jurisdictions, payments in lieu of taxes must be allocated among the Affected Tax Jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each Affected Tax Jurisdiction had the Project not been tax exempt due to the status of the Agency;

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

Section 1. Having considered the Application and the PILOT Request, the Agency hereby authorizes the Executive Director of the Agency to send a written notice to the chief executive officers of each of the Affected Tax Jurisdictions informing them that the Agency is considering a proposed deviation from its Uniform Tax Exemption Policy with respect to the Project for the reasons set forth herein and in the Application and soliciting any comments that such Affected Tax Jurisdictions may have with respect to said proposed deviation.

Section 2. This Resolution shall take effect immediately.

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

John W. Dickson	VOTING	AYE
Matthew P. Stoddard	VOTING	AYE
Jeffery D. Crist	VOTING	AYE
Robert Santo	VOTING	AYE
George DeClue	VOTING	AYE
J. Thomas Jones		ABSENT

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of the Town of Montgomery Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on September 12, 2022 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein 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 respects 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 duly 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 and affixed the seal of the Agency this ___th day of September, 2022.


Secretary

(SEAL)