

## **Fulton County Industrial Development Agency**

Adopted July 14, 2020

Introduced by Todd Rulison  
who moved its adoption.

Seconded by Jane Kelley

### **RESOLUTION ACCEPTING AN APPLICATION FOR FINANCIAL ASSISTANCE SUBMITTED BY NEXUS RENEWABLES U.S. INC. (THE “COMPANY”) RELATING TO A CERTAIN PROJECT; AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT; AND DESCRIBING THE FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT**

WHEREAS, NEXUS Renewables U.S. Inc., a business corporation established pursuant to the laws of the State of Delaware, having an address of 4789 Yonge Street, Suite 916, Toronto, Canada M2N 0G3 (the “Company”) has requested that the Agency provide financial assistance in the form of a mortgage recording tax abatement and a sales tax abatement regarding a project (the “Project”) to consist of: (i) the acquisition of a leasehold interest in approximately 29 acres of certain vacant real property located at County Highway 107 N in the Town of Johnstown, County of Fulton, New York and being a portion of tax map parcel number 164.-2-16.5 (the “Land”); (ii) the planning, design, expansion, renovation, operation and maintenance by the Company of a 6.88 MW-AC (9.25MW-DC) Photovoltaic Array, which includes the installation of 980+/- freestanding, tracking solar tables to be distributed among four (4) subdivided parcels of the Land (collectively, the “Improvements”); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the “Equipment” and, collectively with, the Land and the Improvements, the “Facility”); and (iv) entering into a lease transaction (within the meaning of subdivision (15) of Section 854 of the Act) for each of the subdivided parcels of the Land, pursuant to which the Agency will retain an ownership interest in the Facility and lease such interest in the Facility to the Company, all pursuant to Title 1 of Article 18-A of the General Municipal Law of the State of New York, Chapter 862 of the Laws of 1971 of the State of New York (collectively, the “Act”), as amended; and

WHEREAS, Chapters 356 and 357 of the Laws of 1993 require that prior to granting financial assistance of more than \$100,000.00 to any project, an Agency must (i) adopt a resolution describing the project and the financial assistance contemplated by the Agency with respect thereto, and (ii) hold a public hearing in the city, town or village where the project proposes to locate upon at least ten (10) days published notice and, at the same time, provide notice of such hearing to the Chief Executive Officer of each affected taxing jurisdiction within which the project is located; and

WHEREAS, the Agency is in the process of reviewing and considering the Company’s Application requesting the Agency to provide financial assistance for the proposed Project (collectively the “Financial Assistance”) in the form of (i) an exemption from all State and local

sales and use taxes with respect to qualifying personal property included in and incorporated into the Facility or used in the acquisition, construction or equipping of the Facility and (ii) an exemption from mortgage recording tax, all of which shall be consistent with the uniform tax exemption policy of the Agency; and

WHEREAS, the Agency desires to (i) accept the Application; (ii) authorize the scheduling and conduct of a public hearing; and (iii) negotiate, but not enter into an Agent Agreement and Project Agreement, pursuant to which the Agency will designate the Company as its agent for the purpose of acquiring, constructing and equipping the Project and entering into a Lease Agreement, with the Company.

**NOW, THEREFORE, BE IT RESOLVED:**

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, the Agency hereby finds and determines that:

(a) Pursuant to 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) The Agency has the authority to take the actions contemplated herein under the Act; and

(c) The action to be taken by the Agency will induce the Company to develop the Project, thereby increasing employment opportunities in Fulton County, New York, and otherwise furthering the purposes of the Agency as set forth in the Act; and

(d) The Project will not result in the removal of a 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.

2. The proposed financial assistance being contemplated by the Agency includes (i) an exemption from all state and local sales and use taxes with respect to the qualifying personal property included within the Project or used in the acquisition, construction or equipping of the Project in the estimated amount of \$840,000.00 and (ii) an exemption on mortgage recording tax for qualifying mortgages in the estimated amount of \$80,000.00.

3. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized, on behalf of the Agency, to cause the issuance of public hearing notices, hold a public hearing in compliance with the Act and negotiate (but not execute or deliver) the terms of (A) the Agent Agreement and Project Agreement, whereby the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement and (C) related

documents; provided (i) the rental payments under the Agent Agreement and Lease 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.

4. The Agency hereby schedules a public hearing pursuant to Article 18-A of the New York State General Municipal Law to be held by the Agency on Tuesday, the 28th day of July, 2020, at 10:00 am local time, at the Town Hall of the Town of Johnstown located at 2753 NYS Highway 29, Town of Johnstown, County of Fulton, New York, 12095, in connection with the Project. The Agency hereby authorizes the publication of a Notice of Public Hearing for the Project and in accordance with the Act and the Agency's policies and procedures.

5. This resolution shall take effect immediately.

The foregoing resolution was thereupon declared duly adopted.

Roll Call Vote:

	Aye	Nay	Abstain	Absent
Dave D'Amore	<u>X</u>	___	___	___
Joe Semione	<u>X</u>	___	___	___
Todd Rulison	<u>X</u>	___	___	___
Jane Kelley	<u>X</u>	___	___	___
Mike Fitzgerald	<u>X</u>	___	___	___
Joseph Gillis	___	___	___	<u>X</u>
Tim Munn	<u>X</u>	___	___	___

STATE OF NEW YORK       )  
                                      ) SS:  
COUNTY OF FULTON       )

This is to certify that I, James Mraz, Executive Director for the Fulton County Industrial Development Agency, do hereby certify that the foregoing is a true and correct copy and the whole thereof of a Resolution duly adopted by the Fulton County Industrial Development Agency, Glens Falls, New York on the 14th day of July, 2020.

In witness whereof, I have hereto set my hand and affixed the official seal of the Fulton County Industrial Development Agency on this \_\_\_\_\_ day of July, 2020.

[SEAL]

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James Mraz  
Fulton County  
Industrial Development Agency