

**Jefferson County Industrial Development Agency  
Board Meeting Minutes  
July 9, 2021**

The Jefferson County Industrial Development Agency held their board meeting on Friday, July 9, 2021 in the board room at 800 Starbuck Avenue, Watertown, NY and virtually via zoom.

**Present:** David Converse, Chair, W. Edward Walldroff, William Johnson, Paul Warneck, Robert E. Aliasso, Jr., Lisa L'Huillier, John Jennings

**Excused:** None

**Absent:** None

**Also Present:** Rob Aiken, Christine Powers, Brendan Straub from 7/News, Brad Arthur from Paradigm Environmental, Michael Harris from BCA Architects & Engineering, Ed Valentine from Opal Development/Valentine Stores, Ken Gleason from Town of Rutland, Norm Paradis from Town of Worth, Hari Achuthan, Convalt Energy

**Zoom:** Justin Miller, Esq., Craig Fox from the Watertown Daily Times

**Staff Present:** David Zembiec, Lyle Eaton, Joy Nuffer, Marshall Weir, Jay Matteson

**I. Call to Order:** Chairman Converse called the meeting to order at 8:36 a.m.

**II. Privilege of the Floor:** Mr. Converse invited guests to speak.

Mr. Paradis from the Town of Worth stated he was opposed to the proposed changes to the UTEP as his concern was the town would lose funding.

Mr. Gleason from the Town of Rutland stated he was concerned with the Host Community Agreement change in the proposed UTEP.

Mr. Valentine stated he was interested in what the Board is doing as far as zoning changes in the Corporate Park.

**III. Minutes:** Minutes of the regular meeting held June 3, 2021 and the special meeting held June 14, 2021 were presented. A motion to approve the minutes as presented was made by Mr. Aliasso, seconded by Mr. Jennings. All in favor. Carried.

**IV. Treasurer's Report:** Mr. Aliasso reviewed the financials for the period ending June 30, 2021. After discussion, a motion was made by Mr. Aliasso to accept the financial report as presented, seconded by Mr. Johnson. All in favor. Carried.

**V. Committee Reports:**

**a. Loan Review Committee** – Mr. Aliasso reviewed the minutes.

**i. Resolution No. 07.09.2021.01 for Standard Machine and Fabrication** – After review and discussion, a motion was made by Mr. Warneck to approve the attached resolution, seconded by Mr. Aliasso. All in favor. Carried.

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**VI. Unfinished Business:**

1. **Corporate Park Zoning** – Mr. Zembiec updated the Board that the Town of Watertown Planning Board would prefer not to amend zoning or create an overlay for the Corporate Park. Instead, they would require confirmation from the JCIDA that the project complies with the covenants before they grant site plan approval. However, the need to confirm this is enforceable by the town. He stated that puts the JCIDA in a bad position. The JCIDA Board feels we should have a work session to consider an overlay district. Attorney Miller stated it would require a closer look and an analysis of recourse.
2. **Solitude Solar (USLE Philadelphia A-D) Application Fee Refund Request** – Mr. Zembiec briefed the Board about a request from Solitude Solar to refund the \$10,000 they had paid in application fees for the four projects in the town of Philadelphia. It was mentioned that the fees are non-refundable, and a significant amount of work went into the potential projects, although they did pull the projects from consideration before we went through a coAfter discussion, a motion was made by Mr. Warneck to refund half of the fees, \$5,000 to Solitude Solar, seconded by Mr. Aliasso. All in favor. Carried.
3. **146 Arsenal Street Building/YMCA Project** –
  - a. **BCA Architects & Engineering Proposal for Hazard Materials Abatement Scope of Services for 146 Arsenal Street** – Mr. Harris from BCA Architects & Engineering gave a brief update to the Board. A motion was made by Mr. Warneck to approve the proposal, for a 7.5% fee of project costs plus expenses, seconded by Mr. Aliasso. All in favor. Carried.
  - b. **Paradigm Environmental Proposal for Hazard Materials Abatement Consulting Services for Design, Monitoring and Management** - Mr. Zembiec asked Mr. Arthur from Paradigm Environmental to give an update to the Board on the status of the PCB remediation. Mr. Arthur stated that the test work has been completed, and it appears that there will not need to be a chemical extraction. He believes the scarification of the concrete will need to go to a depth of 1/4 inch. They would do an initial amount of 1/8 inch then go another 1/8 inch. The question was posed could funds be saved if they go directly to the 1/4 inch, to which Mr. Arthur replied they can only do 1/8 of an inch at a time anyway. He stated that the waste product needs to be disposed of carefully, sent by special truck to Michigan to an incinerator specifically for this type of waste. They have been in close contact with the EPA, and the next step is developing a remediation plan for that will be approved. A motion was made by Mr. Warneck to approve the engagement letter from Paradigm Environmental, LLC, which includes EPA and design work related to the remediation of PCB's, seconded by Mr. Johnson. The total estimate was \$249,500.00. There was discussion by the Board of giving Mr. Zembiec the ability to adjust up to a 10% difference in the costs, Attorney Miller agreed that would be appropriate. A motion was made by Mr. Warneck to amend the previous motion to allow for Mr. Zembiec, CEO to adjust up to 10% without returning to the Board for additional approval, seconded by Mr. Johnson. All in favor. Carried.

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**VII. New Business:**

1. **Annual Project Verification Report** – Mr. Zembiec updated the Board on the Annual Project Verification Report. There was a brief discussion.
2. **Resolution No. 07.09.2021.03 for 146 Arsenal Street Cubicle Removal** – Mr. Eaton stated that the Board would need to approve this Resolution prior to the next one. Mr. Weir updated the board on the removal of the cubicles at 146 Arsenal Street. A motion was made by Mr. Aliasso to approve the attached resolution, seconded by Mr. Jennings. All in favor. Carried.
3. **Resolution No. 07.09.2021.02 for 146 Arsenal Street Disposal of Fixed Assets** – Mr. Eaton updated the Board that this is just a financial management resolution. There was a brief discussion. A motion was made by Mr. Aliasso to approve the attached resolution, seconded by Mr. Warneck. All in favor. Carried.

**VIII. Counsel:**

1. **Authorizing Resolution No. 07.09.2021.04 for Adoption of Amendments to Uniform Tax Exemption Policy** – Mr. Warneck gave an overview for the guests in attendance that the JCIDA always likes to get all three parties, the County, School & Towns involved in any UTEP that may come to the area. Negotiations for payments in addition to our standard PILOT should be with all affected jurisdictions to keep things fair to all parties. It was discussed that the land under any potential solar project, for an example, is still on the tax rolls at full taxation and any PILOT agreements would add to the tax dollars that the towns would not have had to begin with. The additional language in the UTEP just allows the JCIDA the latitude to be aware of any HCA that might cause a project to possibly not come to fruition. Mr. Walldroff stated the wording of the UTEP is tailored to work together with any taxing jurisdictions and a Host Community Agreement, if in fact a town wished to go that route. It was discussed that the UTEP only is applicable to renewable projects up to 20 megawatts, anything over this amount would be a deviation, and that size would be a state matter. Mr. Paradis asked that the UTEP changes be tabled for further review. Mr. Zembiec stated that all taxing jurisdictions had been notified and there had been a public hearing. The Board members concurred that enough notifications had been given. The Board asked Mr. Zembiec to respond to Mr. Burrows who had sent a letter in response to the potential changes in the UTEP, and also asked Attorney Miller to review any response before it was sent.

A motion was made by Mr. Warneck to approve the attached resolution, seconded by Mr. Aliasso. Roll call vote was taken. Mr. Aliasso – Yea, Mr. Converse – Yea, Mr. Jennings – Yea, Mr. Johnson – Yea, Ms. L’Huillier – Yea, Mr. Walldroff – Yea, Mr. Warneck – Yea. Carried.

**Executive Session** – At 10:20 a.m. a motion was made by Ms. L’Huillier to enter an executive session to discuss potential sale of property, seconded by Mr. Aliasso. All in favor. Carried. Board Members (including JCLDC Board Members), Mr. Achuthan, Staff and Attorney Miller remained.

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At 10:41 a.m. a motion was made by Mr. Aliasso to leave executive session, seconded by Mr. Johnson. All in favor. Carried.

- 2. Initial Project Resolution No. 07.09.2021.05 for Convalt Energy, Inc. and Convalt Manufacturing, LLC – Phase I Project and LDA** – Mr. Achuthan updated the Board on the progress of the projects. He stated that they have purchased production lines from Sun Power in Oregon, and they are in the process of dismantling the machines to package for shipping to Watertown. They still plan on a timeline of July 2022 of having the company in operation. He believes they will be the top producer of solar panels in this country. The size of the facility is now going to be 315,000 square feet. He is working on providing sustainable power for the factory. He stated the employment projections are 290 to begin with on 2 shifts. Mr. Achuthan stated he hopes to break ground by October 1, 2021.

A motion was made by Ms. L'Huillier to approve the attached resolution, seconded by Mr. Johnson. Roll call vote was taken. Mr. Converse – Yea, Mr. Jennings – Absent, Mr. Aliasso – Yea, Mr. Walldroff – Yea, Mr. Johnson – Yea, Ms. L'Huillier – Yea, Mr. Warneck – Yea. Carried.

**Executive Session** – At 11:15 a.m. a motion was made by Mr. Aliasso to enter an executive session to discuss proprietary financial information of a particular individual or corporation, seconded by Mr. Johnson. All in favor. Carried. Board Members (including JCLDC Board Members), Mr. Achuthan, Staff and Attorney Miller remained.

At 11:45 a.m. a motion was made by Mr. Aliasso to leave executive session, seconded by Mr. Warneck. All in favor. Carried.

- IX. Adjournment:** With no further business before the board, a motion to adjourn was made by Mr. Aliasso, seconded by Mr. Warneck. All in favor. The meeting adjourned at 11:45 a.m.

Respectfully submitted,

*Joy Nuffer*



**JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**  
**Resolution Number 07.09.2021.01**

**RESOLUTION FOR AUTHORIZING A MICRO ENTERPRISE LOAN TO**  
**Standard Machine and Fabrication**

**WHEREAS**, Justin Poirier, owner of Standard Machine and Fabrication requested by application to this Agency a Micro Enterprise Loan in the amount of Twenty Thousand Dollars (\$20,000.00) to purchase equipment to establish a machine shop that will provide service to local vehicle repair shops, and

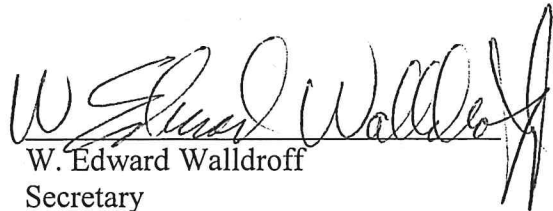
**WHEREAS**, Staff reviewed this request and recommends approval of a loan in the amount of \$20,000 for a five-year amortization with a rate of 5%. Personnel will include the owner and 2 additional positions in year one. Collateral will be a second position lien on the equipment behind Watertown Savings Bank and a personal guarantee of Justin Poirier. The loan will be contingent upon bank financing, and

**WHEREAS**, on June 23, 2021, the Loan Review Committee of the Jefferson County Industrial Development Agency reviewed this request and recommended approval of the loan and terms to the full Board of Directors, and

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Jefferson County Industrial Development Agency that it herein approved the request for a Twenty Thousand Dollar (\$20,000.00) loan to Standard Machine and Fabrication with all terms and conditions as set forth in this Resolution, and be it further,

**RESOLVED**, that the Chairman, Vice Chairman, Secretary and/or Chief Executive Officer are authorized and directed to execute any and all documents necessary to carry out the purposes of this Resolution.

This resolution shall take effect immediately.

  
W. Edward Walldroff  
Secretary

**JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**Resolution Number 07.09.2021.02  
for 146 Arsenal Street Disposal of Fixed Assets**

**WHEREAS**, during the 2014 renovations to 146 Arsenal Street building, JCIDA paid for several of the fixed assets listed below:

Items:	Cost	Depreciate Months	Months Remaining	Dollars Depr.	Dollars Left (Expense)
Floor Finishing/New Carpet	60,945	60	0	60,945.00	0.00
Wall Finishes/Graphic Art	48,000	60	0	48,000.00	0.00
Ceiling Diffusers	97,070	120	34	69,567.12	27,502.88
Chairs (140)	47,726	120	34	34,203.92	13,522.08
Cabling Work	249,000	120	34	178,450.00	70,550.00
Total	\$502,741			\$391,166.04	\$111,574.96

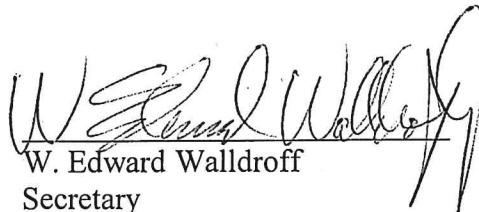
**WHEREAS**, the items have been depreciating since 6/1/14, and

**WHEREAS**, since all of the fixed assets will be disposed of by July 1, 2021, the CFO is requesting them to be removed from the balance sheet, and

**NOW, THEREFORE, BE IT RESOLVED**, by the board of Directors of the Jefferson County Industrial Agency that it hereby approves the request, and be it further

**RESOLVED**, that the Chief Executive Officer or his designee is hereby authorized and directed to execute any and all documents necessary to carry out the purposes of this Resolution.

This resolution shall take effect immediately.

  
W. Edward Walldroff  
Secretary

**JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**

**Resolution Number 07.09.2021.03  
for 146 Arsenal Street Cubicle Removal**

**WHEREAS**, Staff has been working to get the cubicles out of the building. We have donated many cubicles to a variety of businesses throughout the area. Unfortunately, within the current landscape of office space and office furniture, there is little demand for cubicles. We have had local businesses, schools, non-profits, and hospitals take some of the cubicles, but approximately 300 of the workstations remain, and

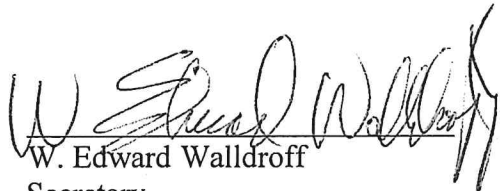
**WHEREAS**, we requested 3 quotes from local contractors to remove the cubicles from the building and place them into a dumpster located in front of the building. Capital Construction is the lowest bidder quoted at \$5,800. The 40-yard dumpster is \$200 per dumpster hauling fee and DANC has agreed to reduced tipping fees of \$31.50 per ton. Staff is currently working on additional savings through another vendor for hauling and tipping.

**WHEREAS**, we recommend authorization to spend up to \$10,000 for the contractor, the dumpster and tipping fees, and

**NOW, THEREFORE, BE IT RESOLVED**, by the board of Directors of the Jefferson County Industrial Agency that it hereby approves the request, and be it further

**RESOLVED**, that the Chief Executive Officer or his designee are authorized and directed to execute any and all documents necessary to carry out the purposes of this Resolution.

This resolution shall take effect immediately.

  
W. Edward Walldroff  
Secretary

**AUTHORIZING RESOLUTION**  
***(Adoption of Amendments to Uniform Tax Exemption Policy)***

A regular meeting of the Jefferson County Industrial Development Agency was convened on Friday July 9, 2021 at 8:30 a.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. 07.09.2021.04

RESOLUTION OF THE JEFFERSON COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY (THE "AGENCY") ADOPTING AMENDMENTS  
TO ITS UNIFORM TAX EXEMPTION POLICY ("UTEP")

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 369 of the Laws of 1971 of the State of New York, (the "Act"), the **JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (the "Agency") was created with the authority and power to promote, develop, encourage and assist in acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research, and recreational facilities as authorized by the Act, and in connection therewith to issue its revenue bonds, and/or enter into straight lease transactions and provide other forms of financial assistance; and

WHEREAS, pursuant to and in accordance with Section 874(4) of the Act, the Agency has adopted and maintained a Uniform Tax Exemption Policy (herein, a "UTEP"), which was adopted on February 1, 2018 and most recently reviewed on October 1, 2020; and

WHEREAS, in connection with the Agency's desire to amend the UTEP to (i) include a special classification of "Renewable Energy Projects" in accordance with recent amendments to the Act; and (ii) establish a uniform abatement schedule for Renewable Energy Projects under 20 MWac, the Agency has prepared amendments to the UTEP (the "Amended UTEP") for consideration and approval; and

WHEREAS, the Agency previously circulated the Amended UTEP to all applicable affected tax jurisdictions ("ATJs") soliciting comments and inviting the ATJs to provide comment and input relating to same; and

WHEREAS, the Agency also previously scheduled, noticed and conducted a public hearing with respect to the Amended UTEP on June 24, 2021 at 9:30 a.m. at 800 Starbuck Avenue, Suite 800, Watertown, New York 13601, whereby the Agency invited any members of the public and all ATJs to provide written comments and/or attend the Agency's public hearing prior to the Agency's consideration of the adoption of the Amended UTEP; and

WHEREAS, the Agency has received and reviewed written comment and questions on the Amended UTEP from certain ATJs and others; and

WHEREAS, upon consideration of the Amended UTEP and all comments received, the Agency desires to adopt same.

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

Section 1. The Agency hereby adopts the Amended UTEP as set forth within Exhibit A, hereto.

Section 2. These Resolutions shall take effect immediately upon adoption.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Robert E. Aliasso, Jr.	X			
David J. Converse	X			
John Jennings	X			
William W. Johnson	X			
Lisa L'Huillier	X			
W. Edward Walldroff	X			
Paul J. Warneck	X			

The resolutions were thereupon duly adopted.

STATE OF NEW YORK     )  
COUNTY OF JEFFERSON   ) ss:

I, the undersigned (Acting) Secretary of the Jefferson County Industrial Development Agency, DO HEREBY CERTIFY:

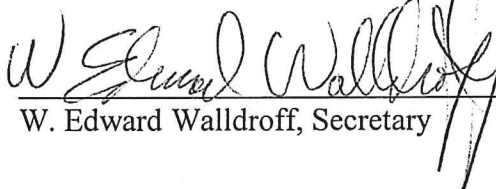
That I have compared the foregoing extract of the minutes of the meeting of the Jefferson County Industrial Development Agency (the "Agency") including the resolution contained therein, held on July 9, 2021, with the original thereof on file in my office, and that the same is a true and correct copy 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 9th  
day of July, 2021.

  
\_\_\_\_\_  
W. Edward Walldroff, Secretary

[SEAL]





**EXHIBIT A**  
**FORM OF AMENDED UTEP**

## UNIFORM TAX EXEMPTION POLICY

### JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY AND GUIDELINES

Pursuant to the authority vested in it by Article 18-A of the General Municipal Law of the State of New York, the Jefferson County Industrial Development Agency (the "Agency") may provide financial assistance to qualified applicants for the taxable bonds or by participation in straight lease transactions.

The general policy of the Jefferson County Industrial Development Agency ("Agency") is to grant applicants real property tax abatements and exemptions from sales, use and mortgage recording taxes as described below. The Agency may grant enhanced benefits on a case-by-case basis for a project expected to have a significant economic impact on the County of Jefferson as determined by the Agency's members.

The Agency generally does not require real property appraisals to be performed as part of the application for financial assistance. However, the Agency does reserve the right to require a real property appraisal as part of an application for financial assistance.

The Agency has adopted this Uniform tax Exemption Policy to provide guidelines for the claiming of real property, sales and use tax and mortgage recording tax abatements.

#### A. Real Property Tax Abatements.

1) Industrial and Non-Industrial Projects. The Agency maintains a policy for the provision of real property tax abatements for qualified projects undertaken by the Agency where the Agency acquires a fee or leasehold interest in real estate. The abatement provided by the Agency for qualifying industrial and non-industrial projects shall apply to the value added to real property brought about by construction and/or renovation of qualifying projects (the "Added Value"), above the parcel's assessed value prior to construction or renovation (the "Base Value"). In establishing these values, the Agency shall have the option of relying on data provided by the assessor for the impacted jurisdiction or requiring the applicant to furnish an appraisal from a qualified commercial real estate appraiser, approved in advance by the Agency.

The period of real property tax abatement for a project shall not exceed the period of the respective project financing or lease, and under no circumstances shall the period of abatement exceed fifteen (15) years (the "PILOT Term"). The abatement shall be on a graduated schedule applicable to county, municipal and school real property taxes, and will result in increasing percentages of real property taxes due over the PILOT Term. Any schedule shall be graduated such that the total abatement provided shall not exceed a fifty percent (50%) abatement over a fifteen (15) year period. Eligible projects include industrial projects (i.e. manufacturing, remanufacturing, assembly, processing, product research and development, etc.); non-industrial projects (i.e. warehouse, wholesale/distribution, commercial, qualified retail subject to the

limitations of Section 862(2) of the Act, office building, renewable energy (subject to the PILOT terms set forth below) and hotel projects.

2) **Renewable Energy Projects** The Agency may provide real property tax abatements to renewable energy projects, as defined within the Act to include any project and associated real property on which the project is situated, that utilizes any system or equipment as set forth in Section 487 of the Real Property Tax Law ("RPTL") or as defined pursuant to paragraph (b) of subdivision one of Section 66-p of the Public Service Law as added by chapter one hundred six of the laws of 2019, with a rated capacity of less than 20 megawatts AC. The Agency has established a standard PILOT Structure for Renewable Energy Projects, as follows:

- a. **Term:** The PILOT abatement schedule for Renewable Energy Projects shall be no more than 15 years.
- b. **Fixed Payment Schedule for Renewable Energy Improvements:** Agency PILOT Agreements for Renewable Energy Projects shall provide a fixed dollar amount per megawatt AC faceplate rating of the project. The payment schedule will include a minimum of two percent (2%) escalator on the prior year's payment. Once so calculated, the Agency reserves the right to alter the order in which the payments are made.
- c. PILOT Agreements for Renewable Energy Projects shall also require annual payment of the equivalent of full taxes on the land included within the project facility, which shall be based upon the assessed value as determined by the applicable assessor. Portions of existing tax parcels not included within a project ground lease will remain classified as fully taxable.
- d. Any participation by the Agency in sponsoring a renewable energy project shall take into account whether a project sponsor enters into one or more host community agreement(s).

## **B. Sales and Use Tax Exemptions.**

The Agency maintains a policy for the provision of sales and use tax exemptions for qualified projects undertaken by the Agency. Where the Agency authorizes the undertaking of a project in accordance with the Act and has appointed an applicant its agent to undertake same, the Agency may enter into one or more agreements with such applicant evidencing such appointment and allowing the applicant to purchase and/or lease materials, equipment and taxable services as agent of the Agency. The abatement provided by the Agency for qualifying projects shall apply to purchases of construction materials and equipment rentals and purchases of project related equipment, furnishings and services made as agent for the Agency, and are therefore afforded full exemption from local and New York State Sales and Use Taxes until the project is completed (i.e. certificate of occupancy). Operating and maintenance expenses of projects are not eligible for sales or use tax relief and no sales tax exemption shall be provided by the Agency for purchases and rentals after a project is completed.

All project applicants must agree in writing to file with the New York State Department of Taxation Form ST-340, and/or such other forms as may from time to time be required, and annual statement of the value of all sales and use taxes exemption claimed in connection with the facility in full compliance with Section 874(8) of the Act.

### **C. Mortgage Recording Tax Exemptions.**

The Agency maintains a policy to provide mortgage recording tax exemptions for qualified projects undertaken by the Agency. Where the Agency authorizes the undertaking of a project in accordance with the Act and the applicant secures one or more loans to pay for project acquisition or improvements that will be secured against the project with one or more mortgages, the Agency may participate as a non-recourse mortgagor with the applicant for purposes of exempting any mortgage recording taxes that would otherwise be due and payable but for the Agency's involvement with the project. The Agency's Policy is to permit mortgage recording tax exemptions on all project related financing to the full extent permitted by New York State Law, whether or not the Agency has issued its bonds to finance the Project.

The Agency may, in its sole discretion, permit mortgage recording tax exemptions on non-project related financings, (e.g. second mortgages on the project to secure subordinated indebtedness of the project applicant). In determining whether to permit such exemptions on non-project related financing, the Agency shall consider such factors as it deems appropriate, including but not limited to the use of the property, the degree of investment, the degree and nature of the employment and the economic condition of the areas in which the facility is located.

### **D. Deviations.**

Any project not listed in this policy or any proposed PILOT Agreement, the terms of which are outside the provisions of this policy, as determined by the Agency, shall be treated as a deviation. In accordance with the Act, the Agency shall notify affected taxing jurisdictions prior to undertaking any proposed deviation from this policy and the reasons therefore. Any deviations from the foregoing standard policy shall require the affirmative consent of each affected taxing jurisdiction and will be made only with the specific approval of the Agency's members based on the factors listed in paragraph E to this policy and those described in Section 874(4)(a) of the Act.

### **E. Evaluation Criteria.**

The determination of whether a project is qualified to receive financial assistance from the Agency shall be based on the criteria identified in the Agency's cost benefit analysis and the Application. In making its determination the Agency may consider any or all of the following criteria, no single one of which is determinative:

- 1) The nature of the proposed project (e.g., manufacturing, commercial, renewable energy, etc.).

2) The nature of the property before the project begins (e.g., vacant land, vacant building, brownfield, etc.)

3) The economic condition of the area at the time of the application and the economic multiplying effect the project will have on the area.

4) The extent to which the project will create or retain permanent, private sector jobs within Jefferson County, the number of jobs to be created/retained and/or the salary ranges of such jobs.

5) The number of construction jobs associated with the project and the extent to which the project utilizes local labor.

6) The estimated value of tax exemptions to be provided.

7) The estimated value of other public assistance.

8) The economic impact of the project and the proposed tax exemptions on affected taxing jurisdictions.

9) The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.

10) The amount of private sector investment generated or likely to be generated within Jefferson County by the proposed project.

11) The likelihood of accomplishing the proposed project in a timely fashion.

12) The effect of the proposed project upon the environment and surrounding property.

13) The extent to which the proposed project will require the provision of additional services including, but not limited to, educational, transportation, emergency medical or police and fire services.

14) The extent to which the proposed project when completed will enhance the long-term tax base and/or make a significant capital investment.

15) The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the project is located.

16) the contribution of the project to the State's Renewable Energy Goals and emission reduction targets as set forth in the New York State Energy Plan adopted pursuant to Section 6-104 of the Energy Law.

17) Any other pertinent reasons deemed relevant by the Agency provided said reasons are set further in writing.

## **F. PILOT Agreement Approval Process.**

All applications for PILOT agreements shall be reviewed and evaluated pursuant to the Agency's existing policies, and the applicant shall be required to adhere to these policies for the duration of the PILOT Term. Failure to do so may result in cancellation of the PILOT at the Agency's sole discretion.

The Agency shall comply with applicable provisions of the Act in connection with the provision of financial assistance to any applicant requesting financial assistance of more than \$100,000, including the scheduling and conduct of a public hearing in accordance with Section 859-a of the Act. In addition to public hearing notice requirements contained within the Act, the agency has established the following practices:

1) Prior to conducting any required public hearings for a project, Agency staff shall work closely with representatives of the affected taxing jurisdictions to discuss the proposed project and shall provide each affected taxing jurisdiction with the following materials: (i) a copy of the application submitted to the Agency, (ii) a cost-benefit analysis relating to the project, (iii) a summary of the terms and structure of financial assistance to be provided by the Agency (including proposed PILOT abatement or payment schedule(s); (iv) whether the Agency is considering a deviation from this policy with respect to the proposed project; and (v) any additional information an affected taxing jurisdiction may deem necessary or appropriate to their deliberations.

2) The Agency's final approval of any PILOT Agreement shall be contingent upon the applicant securing all approvals required for the project from any impacted jurisdiction and providing proof thereof to the Agency.

3) The Agency's final consideration and approval of a PILOT Agreement shall be contingent upon compliance with the New York State Environmental Review Act and the regulation promulgated thereunder (SEQRA). For all actions considered to be Type I under SEQRA the Agency shall be considered an involved agency, and the applicant shall be responsible to identify the Agency as such in its submittals to the Lead Agency.

4) Each project receiving any abatement from real property taxes will be subject to a PILOT Agreement in a form acceptable to the Agency and in compliance with the Act. The Agency will consider project factors, similar to those described in paragraph F to this policy, when determining the amounts to be paid under the PILOT Agreement.

5) A copy of the PILOT Agreement will be forwarded to each of the affected taxing jurisdictions within fifteen (15) days of execution. In accordance with Section 858(15) of the Act, unless otherwise agreed by the affected taxing jurisdictions, all PILOT Agreements shall provide that PILOT Payments received shall be allocated among the affected taxing jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected taxing jurisdiction had the project not been tax exempt as a result of the Agency's involvement in the project.

6) If it is desired by the affected taxing jurisdictions to establish a negotiated allocation of PILOT payments for a particular project (other than pro-rata), the Agency shall provide the affected taxing jurisdiction with forms of approving resolutions for consideration in connection with the establishment of an agreed distribution formula. Any allocation of PILOT payments other than pro-rata shall be considered to be a deviation requiring affirmative consent of all affected taxing jurisdictions.

7) The Agency shall require all project applicants to make commitments with respect to the use of local labor and all such project sponsors shall comply with any and all applicable codes of conduct with respect to ethics and conflicts of interest, and in accordance with all applicable policies of the Agency.

#### **G. Recapture of Benefits.**

Project applicants must agree that the agency, at its sole discretion and on a case-by-case basis, may determine, (but shall not be required to do so) with respect to a particular project, that a project has failed to meet its intended goals and may recapture the value of any or all exemptions from taxation granted with respect to the project by virtue of the Agency's involvement. The Agency's review and determination in connection with the recapture of benefits shall be conducted pursuant to the Agency's Recapture Policy, as the same may be amended from time to time.

#### **H. Effective Date.**

This Uniform Tax Exemption Policy shall apply to all projects for which the Agency has adopted an Inducement Resolution after July 9, 2021.

#### **I. Amendments.**

The Agency, by resolution of its members, and upon notice to all affected taxing jurisdictions as may be required by law, may amend or modify the foregoing policy as it may, from time to time, in its sole discretion determine.



## INITIAL PROJECT RESOLUTION

*(Convalt Energy, Inc. and Convalt Manufacturing, LLC –Phase 1 Project and LDA)*

A regular meeting of the Jefferson County Industrial Development Agency convened on Friday, July 9, 2021 at 8:30 a.m.

The following resolution was duly offered and seconded, to wit:

Resolution No. 07.09.2021.05

RESOLUTION OF THE JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”) (i) ACCEPTING AN APPLICATION SUBMITTED BY CONVALT ENERGY, INC., FOR ITSELF AND/OR ON BEHALF OF ONE OR MORE ENTITIES TO BE FORMED, INCLUDING CONVALT MANUFACTURING, LLC (COLLECTIVELY, THE “COMPANY”) WITH RESPECT TO A CERTAIN PROJECT (AS DESCRIBED BELOW); (ii) AUTHORIZING THE SCHEDULING AND CONDUCT OF A PUBLIC HEARING WITH RESPECT TO THE PROJECT; (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT; (iv) AUTHORIZING THE EXECUTION AND DELIVERY OF A LAND DEVELOPMENT AGREEMENT WITH EXCLUSIVE OPTION AND LICENSE (“LDA”) TO BE ENTERED INTO WITH THE COMPANY; AND (v) AUTHORIZING THE ISSUANCE OF A NOTICE OF DISPOSITION WITH RESPECT TO CERTAIN REAL ESTATE OWNED BY THE AGENCY.

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 369 of the Laws of 1971 of the State of New York, as amended (hereinafter collectively called the “Act”), the **JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY** (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, **CONVALT ENERGY, INC.**, for itself and/or on behalf of an entity or entities to be formed (collectively, the “Company”), has submitted an application (the “Application”) to the Agency requesting the Agency’s assistance with a certain project or projects (collectively, the “Convalt Project”) consisting of: (i) the disposition by the Agency of all or portions of approximately 88.51 acres of real property owned by the Agency and located in the vicinity of State Route 12F in Town of Hounsfield, Jefferson County, New York, (ii) the planning, design, construction, equipping and operation of (a) the phased development of up to 500,000 square foot manufacturing facility to accommodate solar panel manufacturing and solar power plant generation, including building improvements for manufacturing, warehousing, office space, and related internal spaces, external parking improvements, storm water management and related site improvements, and related on and offsite utility improvements, and (b) one or more

photovoltaic solar energy arrays installed for testing and energy production and sale for on and offsite usage, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Convalt Improvements"), and (iii) the acquisition in and around the Improvements and of certain items of equipment and other tangible personal property and equipment (the "Convalt Equipment" and, collectively with the Land and the Improvements, the "Convalt Facility"), and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain one or more leasehold interests in the Convalt Facility for a period of time and sublease such interest in the Facility back to the Company; and

WHEREAS, as and for the first phase of the Convalt Project, the Company, by and through affiliate **Convalt Manufacturing, LLC**, is requesting that the Agency consider undertaking the first phase of a Project (the "Project") consisting of: (i) the disposition by the Agency of all or portions of approximately 88.51 acres of real property owned by the Agency and located in the vicinity of State Route 12F in Town of Hounsfield, Jefferson County, New York (the "Land", being more particularly described as one or more tax parcels as may be subdivided and/or merged, including TMID Nos 81.00-1-14.1 (29.93 acres), 81.00-1-13.1 (33.49 acres), 82.00-3-2.2 (8.45 acres), 81.00-3-2.3 (7.27 acres), and 82.00-3-5 (10.78 acres)), (ii) the planning, design, construction, equipping and operation of an approximately 300,000 square foot manufacturing facility to accommodate solar panel manufacturing and solar power plant generation, including building improvements for manufacturing, warehousing, office space, and related internal spaces, external parking improvements, storm water management and related site improvements, and related on and offsite utility improvements (collectively, the "Improvements"), and (iii) the acquisition in and around the Improvements and of certain items of equipment and other tangible personal property and equipment (the "Equipment" and, collectively with the Land and the Improvements, the "Facility"), and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"); and

WHEREAS, the Agency is contemplating providing financial assistance to the Company with respect to the Project (collectively, the "Financial Assistance") in the form of: (A) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in or incorporated into the Facility or used in the construction and equipping of the Facility, (B) a mortgage recording tax exemption for financings undertaken to construct the Facility, and (C) a partial real property tax abatement through a payment-in-lieu-of-tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to the Agency for the benefit of each affected tax jurisdiction (the "Affected Tax Jurisdictions"); and

WHEREAS, the Agency and Company have negotiated of terms for disposition of all or portions of the Land to the Company (the "Disposition") to be memorialized within a contemplated Land Development Agreement with Exclusive Option and License ("LDA") to be entered into a furtherance of the Project; and

WHEREAS, in furtherance of the Disposition, and in accordance with applicable provisions of the Public Authorities Law ("PAL"), the Agency further contemplates the issuance of a Notice of Disposition to required recipients pursuant to PAL Section 2897(6)(d) (the "Disposition Notice"), such Disposition being exempted from publicly advertising for bids pursuant to PAL Section 2897(6)(c)(v) and obtaining fair market value pursuant to PAL Section 2897(7)(ii); and

WHEREAS, pursuant to the terms of the LDA, as set forth within Exhibit A, hereto, the Agency and Company have proposed terms for (i) the Disposition of the Land to the Company in furtherance of the Project, and (ii) the Company's obligations with respect to undertaking the Project, and (iii) the Agency's obligation to undertake a certain Agency Infrastructure Project to prepare the land for the Project, all of the foregoing being contemplated by the Agency and Company to be necessary to undertake the Project, which will be undertaken by the Company as agent of the Agency pursuant to and in accordance with the Act; and

WHEREAS, the Agency desires to (i) accept the Application, (ii) authorize the scheduling and conduct of a public hearing pursuant to an in accordance with the Act, (iii) authorize the execution of the LDA and issuance of the Disposition Notice, and (iv) authorize related undertakings as set forth within the LDA; and

WHEREAS, once the Project secured local site plan and other regulatory approvals, it is contemplated that the Agency will conduct the Public Hearing and negotiate, but not execute, an Agent and Financial Assistance and Project Agreement (the "Agent Agreement"), a Lease Agreement (the "Lease Agreement"), Leaseback Agreement (the "Leaseback Agreement") and PILOT Agreement pursuant to which the Agency would be willing to take or retain a leasehold interest in the Land, the Improvements, the Equipment and personal property constituting the Facility; and

WHEREAS, the Agency intends to describe the Project, accept the Application, describe the forms of Financial Assistance contemplated by the Agency, secure any necessary consents from the Affected Tax Jurisdictions, and authorize the scheduling and conduct of public hearing(s) pursuant to and in accordance with the Act.

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

Section 1. Based upon the 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 (i) dispose of interests in the Land pursuant to the LDA and appoint the Company as agent to construct the Improvements and acquire the Equipment constituting the Facility pursuant to the Agent Agreement and

Leaseback Agreement to be negotiated as components of one or more Straight Lease Transactions; and

(C) Subject to the terms and conditions set forth within Section 4, hereof, 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 undertake the Project, thereby increasing capital investment and employment opportunities in the Town of Hounsfield, 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 facility or 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 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, (ii) a mortgage recording tax exemption for financings undertaken to construct the Facility, and (iii) a partial real property tax abatement through a payment-in-lieu-of-tax agreement (the "PILOT Agreement"), pursuant to which the Company would make payments in lieu of real property taxes to the Agency for the benefit of the Affected Tax Jurisdictions.

Section 3. The Agency further authorizes the scheduling and conduct of a public hearing as required by Section 859-a of the Act (the "Public Hearing"). Prior to such Public Hearing, the Chairman, Vice Chairman and/or Chief Executive Officer of the Agency are hereby authorized and directed to negotiate the terms of one or more PILOT Agreements for the Project in accordance with the Agency's Uniform Tax Exemption Policy ("UTEP").

Section 4. The Agency's formal inducement to undertake the Project and approve the Financial Assistance shall be by one or more further resolutions of the Agency and shall be subject to the terms and conditions as are set forth therein.

Section 5. The Agency hereby authorizes the undertaking of the Disposition of the Land to the Company in accordance with the terms and conditions set forth within the LDA, along with the terms of the Option, as further defined therein. The Chairman (or Vice Chairman) and/or Executive Director of the Agency are hereby authorized, on behalf of the Agency, to execute and deliver the LDA in substantially the form attached hereto as **Exhibit A**, with such changes, variations, omissions and insertions as authorized by the Chairman, Vice Chairman and/or Executive Director of the Agency, the execution thereof by the Chairman, Vice Chairman

and/or Executive Director of the Agency to constitute conclusive evidence of such approval. The Agency hereby further authorizes the issuance of the Disposition Notice in such form as approved by the Chief Executive Officer and Transaction Counsel to the Agency.

Section 6. Harris Beach PLLC, as General and Transaction Counsel for the Agency, is hereby authorized to work with counsel to the Company and others to prepare for submission to the Agency all documents necessary to effect the conduct of the Public Hearing issuance of the Disposition Notice.

Section 7. The Chairman, Vice Chairman and/or the Chief Executive Officer of the Agency are hereby authorized and directed to negotiate, but not execute, certain lease agreements, an Agent and Financial Assistance and Project Agreement (the "Agent Agreement"), the PILOT Agreement(s), and related documents to undertake the Straight Lease Transaction. The Agency's authorization of the Project and the Financial Assistance shall be subject to the adoption of Agency resolutions relative to same.

Section 8. The Chairman, Vice Chairman and Chief Executive Officer of the Agency are hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 9. The officers, employees and agents of the Agency are hereby authorized and directed for an 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 10. These Resolutions 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:

	Yea	Nay	Absent	Abstain
David J. Converse	[ X ]	[ ]	[ ]	[ ]
John Jennings	[ X ]	[ ]	[ ]	[ ]
Robert E. Aliasso, Jr.	[ X ]	[ ]	[ ]	[ ]
W. Edward Walldroff	[ X ]	[ ]	[ ]	[ ]
William W. Johnson	[ X ]	[ ]	[ ]	[ ]
Lisa L'Huillier	[ X ]	[ ]	[ ]	[ ]
Paul J. Warneck	[ X ]	[ ]	[ ]	[ ]

The Resolution was thereupon duly adopted.

STATE OF NEW YORK                   )  
COUNTY OF JEFFERSON            ) SS:

I, the undersigned Chief Executive Officer of Jefferson County Industrial Development Agency, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of Jefferson County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on July 9, 2021, 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 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 such 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 affixed the seal of said Agency this 13<sup>th</sup> day of July, 2021.

  
\_\_\_\_\_  
David J. Zembiec, CEO

[SEAL]





**EXHIBIT A**  
**FORM OF LDA**



## EXECUTION COPY

### LAND DEVELOPMENT AGREEMENT WITH LICENSE AND EXCLUSIVE OPTION

THIS LAND DEVELOPMENT AGREEMENT WITH LICENSE AND EXCLUSIVE OPTION (hereinafter, the "Agreement"), dated as of the [ ] day of [ ], 2021, by and between the **JEFFERSON COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York (the "State") with offices at 800 Starbuck Avenue, Suite 800, Watertown, New York 13601 (the "Agency") and **CONVALT ENERGY, INC.**, a limited liability company duly formed and validly existing under the laws of the State of Delaware with offices at 800 Starbuck Avenue, Suite A-15, Watertown, New York 103601 (the "Company").

#### WITNESSETH:

WHEREAS, the Agency was created by Chapter 1030 of the Laws of 1969 of the State of New York pursuant to Title I of Article 18-A of the General Municipal Law ("GML") of the State of New York (collectively, the "Act") as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, **CONVALT ENERGY, INC.**, for itself and/or on behalf of an entity or entities to be formed (collectively, the "Company"), has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project or projects (collectively, the "Convalt Project") consisting of: (i) the disposition by the Agency of all or portions of approximately 88.51 acres of real property owned by the Agency and located in the vicinity of State Route 12F in Town of Hounsfield, Jefferson County, New York, (ii) the planning, design, construction, equipping and operation of (a) the phased development of up to 500,000 square foot manufacturing facility to accommodate solar panel manufacturing and solar power plant generation, including building improvements for manufacturing, warehousing, office space, and related internal spaces, external parking improvements, storm water management and related site improvements, and related on and offsite utility improvements, and (b) one or more photovoltaic solar energy arrays installed for testing and energy production and sale for on and offsite usage, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Convalt Improvements"), and (iii) the acquisition in and around the Improvements and of certain items of equipment and other tangible personal property and equipment (the "Convalt Equipment" and, collectively with the Land and the Improvements, the "Convalt Facility"), and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain one or more leasehold

interests in the Convalt Facility for a period of time and sublease such interest in the Facility back to the Company; and

WHEREAS, as and for the first phase of the Convalt Project, the Company, by and through affiliate **Convalt Manufacturing, LLC**, is requesting that the Agency consider undertaking the first phase of a Project (the "Project") consisting of: (i) the disposition by the Agency of all or portions of approximately 88 acres of real property owned by the Agency and located in the vicinity of State Route 12F in Town of Hounsfield, Jefferson County, New York (the "Land", being more particularly described as one or more tax parcels as may be subdivided and/or merged, including TMID Nos 81.00-1-14.1 (29.93 acres), 81.00-1-13.1 (33.49 acres), 82.00-3-2.2 (8.45 acres), 81.00-3-2.3 (7.27 acres), and 82.00-3-5 (10.78 acres)), (ii) the planning, design, construction, equipping and operation of an approximately 300,000 square foot manufacturing facility to accommodate solar panel manufacturing and solar power plant generation, including building improvements for manufacturing, warehousing, office space, and related internal spaces, external parking improvements, storm water management and related site improvements, and related on and offsite utility improvements (collectively, the "Improvements"), and (iii) the acquisition in and around the Improvements and of certain items of equipment and other tangible personal property and equipment (the "Equipment" and, collectively with the Land and the Improvements, the "Facility"), and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"); and

WHEREAS, in furtherance of the Project, the Agency and Company have negotiated terms for disposition of either a fee or leasehold interest in the Land to the Company (the "Disposition") to be memorialized herein; and

WHEREAS, in furtherance of the Disposition, and in accordance with applicable provisions of the Public Authorities Law ("PAL"), the Agency is required to issue a Notice of Disposition to required recipients pursuant to PAL Section 2897(6)(d), dated (the "Disposition Notice"), whereby the Agency may undertake the Disposition on or after 90 days following the issuance of said Disposition Notice, with such Disposition being exempted from publicly advertising for bids pursuant to PAL Section 2897(6)(c)(v) and obtaining fair market value pursuant to PAL Section 2897(7)(ii); and

WHEREAS, in furtherance of the Project and in consideration for the Company's willingness to undertake the Project, the Agency will undertake or cause to be undertaken a certain Agency Infrastructure Project (as more particularly defined herein) to provide certain infrastructure improvements to serve the Facility; and

WHEREAS, the Agency and the Company wish to enter in to this Agreement to provide the Company with preliminary Project development access rights to the Land and an exclusive option to acquire the Land from the Agency in furtherance of the Project.

NOW THEREFORE, for and in consideration of the promises and the mutual covenants hereinafter contained, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto formally covenant, agree and bind themselves as follows:

## ARTICLE I REPRESENTATIONS AND COVENANTS

### Section 1.1. Representations and Covenants of the Agency.

The Agency makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Agency is a duly established and existing public benefit corporation pursuant to the Act, as amended, and Chapter 1030 of the Laws of 1969 of the State, pursuant to which the Agency has the power to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder. Upon completion of the procedural requirements mandated upon the Agency by the Act, the Agency will have the authority to take the actions contemplated herein under the Act.

(b) The Agency has been duly authorized to execute and deliver this Agreement.

(c) Pursuant to the terms hereof, it is contemplated that the Agency will transfer to the Company title to or a leasehold interest in the Land and Project and the Agency contemplates that it will designate the Company as its agent for the purposes of acquiring, constructing, equipping, operating, repairing and maintaining the Project, all for the purpose of promoting the industry, health, welfare, convenience and prosperity of the inhabitants of the State and the County of Jefferson, New York, and improving their standard of living.

(d) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of the Act or of any corporate restriction or any agreement or instrument to which the Agency is a party or by which it is bound, or will constitute default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Agency under the terms of any such instrument or agreement.

(e) The Agency has been induced to enter into this Agreement by the undertaking of the Company to acquire, construct, equip, operate, repair and maintain the Project and to create and retain related jobs in Jefferson County, New York.

(f) To the best of the Agency's knowledge, the activities undertaken by or at the direction of the Agency prior to the date hereof to construct roadway, water and sewer

improvements on and adjacent to the Land, as they exist as of the date of this Agreement (collectively, the "Existing Improvements"), have been performed in a manner that complies with all applicable laws and regulations (herein, "Applicable Law"), including specifications of governmental authorities having jurisdiction over such improvements. Upon request, the Agency shall provide the Company with copies of all drawings, engineering reports, construction contracts and other construction documentation relating to the Existing Improvements.

(g) The activities of the Agency required by this Agreement or otherwise conducted by the Agency, including, but not limited to the Agency Infrastructure Project, as defined herein, will conform with Applicable Law of governmental authorities having jurisdiction over the Agency Infrastructure Project, and for as long as the Agency shall remain in title to and/or retain jurisdiction or control over all or portions of the Agency Infrastructure Project, the Agency shall defend, indemnify and hold the Company harmless from any liability or expenses resulting from any failure by the Agency to comply with the provisions of this subsection (g), excluding any such failure that is due to any act or omission of the Company to comply with Applicable Law.

(h) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Agency, threatened against or affecting the Agency, to which the Agency is a party, and in which an adverse result would in any way diminish or adversely impact on the Agency's ability to fulfill its obligations under this Agreement.

(i) No entity or person other than Company (pursuant to the terms hereof) has any right to acquire all or any portion of the Land.

(j) The Agency has no property condition report or other reports and documents related to the condition of the Land except those set forth on Exhibit A, complete copies of which have been provided to the Company.

(k) The Agency is the sole fee owner of the Land and shall at Closing (as defined herein) deliver good and marketable title to the Land, free and clear of all liens, encumbrances, mortgages, bills of sale, contracts of sale, historical or landmark restrictions, leases (oral or written, except as provided herein), special agreements of any kind or nature whatsoever, or any liens of any nature other than Permitted Exceptions (defined below).

#### Section 1.2. Representations and Covenants of the Company.

The Company makes the following representations and covenants as the basis for the undertakings on its part herein contained:

(a) The Company is a limited liability company duly formed and validly existing under the laws of the State of Delaware and authorized to conduct business in the

State of New York, has the authority to enter into this Agreement and has duly authorized the execution and delivery of this Agreement.

(b) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which the Company is a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien of any nature upon any of the property of the Company under the terms of any such instrument or agreement.

(c) 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 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.

(d) The Project-related activities of the Company will conform with all Applicable Law, and the Company shall defend, indemnify and hold the Agency harmless from any liability or expenses resulting from any failure by the Company to comply with the provisions of this subsection (d), excluding any failure that is due to an act or omission of the Agency to comply with Applicable Law.

(e) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Company, threatened against or affecting the Company, to which the Company is a party, and in which an adverse result would in any way diminish or adversely impact on the Company's ability to fulfill its obligations under this Agreement.

## ARTICLE II DEVELOPMENT RIGHTS, OPTION AND CONSIDERATION

Section 2.1. Development Rights. Subject and pursuant to the terms, conditions and contingencies contained within this Agreement, the Agency hereby grants to the Company the exclusive right to undertake the Project on the Land. During the term of this Agreement, the Agency shall not engage in discussions with any other developers or solicit proposals relating to the Land. The exclusive development rights provided herein shall be granted for a period of one (1) year from the date hereof (the "Development Term"). In the event that a Closing Date, as defined within Section 2.2, below, is not scheduled and a Closing, as defined below, is not conducted within the



Development Term, as may be extended pursuant to the terms of this Agreement, the Company's rights and obligations hereunder, with the exception of the obligations contained within Section 8.11 hereof, shall lapse and become null and void. It is expressly agreed by the parties hereto that the Agency and the Company shall work cooperatively to assure that the Company may expediently initiate, undertake, and complete the Project. The Company shall have the right to request two (2) six (6) month extensions to the Development Term (such individual, successive six (6) month periods hereinafter, the "Extension Terms"). Any such request for extensions (an "Extension Request") by the Company shall be submitted to the Agency in writing at least sixty (60) days prior to the end of the Development Term, as may be extended. In no event may the Development Term be extended to comprise a period of greater than two (2) years, unless the Development Term is further extended by resolution adopted by the Agency, or (i) the Agency fails to timely undertake the substantial completion of the Agency Infrastructure Project (as defined herein); (ii) the Agency fails to satisfy any Agency Express Contingency (as defined herein), or (iii) there remain unsatisfied any Other Express Contingencies (as defined herein), each the basis for an "Automatic Extension". Notwithstanding anything to the contrary contained herein, the Company shall not be required to timely submit an Extension Request and the Development Term shall automatically be extended for up to two (2) six (6) month periods if any of the foregoing bases for an Automatic Extension are satisfied in accordance with the terms of this Agreement. Upon the Company's request, the Agency shall execute a written confirmation of the date upon which the Extension Term shall expire. The Agency may approve or disapprove a request for one or more Extension Terms in its sole and absolute discretion, such approval of the Agency shall not be unreasonably withheld, conditioned, or delayed. It is expressly agreed by the parties hereto that any such request may reasonably be denied by the Agency (other than an Automatic Extension) where there remain any unsatisfied Company Express Contingencies, as defined herein, where any such unsatisfied Company Express Contingency results from the action or failure to act on the part of the Company. In the event that (i) an Automatic Extension is allowable at the end of the Two (2) year Development Term, or (ii) all Express Contingencies have been satisfied, but a Closing Date has not been agreed upon by the parties as of the second anniversary hereof, the Development Term shall be extended by mutual agreement of the parties hereto for a period of up to an additional Six (6) months to allow for satisfaction of remaining Express Contingencies and/or establishment of a Closing Date. .

Section 2.2. Exclusive Option to Acquire the Land. Subject and pursuant to the terms, conditions and contingencies contained within this Agreement, the Agency hereby grants to the Company the exclusive option to acquire fee title (or a leasehold interest) to the Land for purposes of undertaking the Project (collectively, the "Option"). The Land is comprised of approximately 88 acres, as depicted within Exhibit B, hereto. To the extent that the Agency Infrastructure Project (as defined herein) is not completed at the time of the Company's exercise of the Option, and/or roadway portions of the Agency Infrastructure Project are not yet dedicated as a public right-of-way at the time of the Company's exercise of the Option, the Option to acquire the Land shall include easement(s) in favor of the Company to allow unrestricted access to the Land for

construction and/or operation of the Facility, such easements to be approved as to form by the Company. Said Option is hereby granted by the Agency to the Company in exchange for the \$1.00 deposit, as further described herein and paid by the Company contemporaneously herewith, and for the Company's willingness to undertake the Project, which shall promote the industry, health, welfare, convenience and prosperity of the inhabitants of the State and the County of Jefferson, New York, and improve their standard of living. The Company may exercise the Option subject to the terms and conditions set forth herein and only during the Development Term, as defined herein, and whereupon, the Agency and the Company shall consummate the transactions contemplated herein on the Closing Date, as defined herein. In the event that a Closing is not conducted within the Development Term, the Option shall lapse and become null and void.

Section 2.3. Consideration. In exchange for the exclusive development rights, Option and title to the Land, as contemplated herein, the Company shall pay to the Agency the sum of ONE DOLLAR \$1.00 upon execution of this Agreement, such payment to be a non-refundable deposit (the "Deposit") in exchange for the Development Rights and Option granted herein. On the Closing date, the Company shall pay the Agency the sum of ONE DOLLAR (\$1.00) as consideration for fee title to the Land (the "Purchase Price").

Section 2.4 Closing Date; Contemplated Transactions. (a) Closing Date. The consummation of the within described transactions shall be hereinafter referred to as the "Closing". The date of the Closing (hereinafter, the "Closing Date"), shall be mutually established by the Agency and the Company during the Development Term pursuant to the terms, conditions and contingencies contained within this Agreement, but in no event later than Sixty (60) days following satisfaction of the Express Contingencies, as defined herein.

(b) Contemplated Transactions. In furtherance of the Project and on the Closing Date, the Agency and the Company contemplate entering into agreement(s) that would allow the Agency to retain a fee or leasehold interest in the Land, with the Company and Agency entering into one or more lease agreements (the "Lease Agreement"), all for purposes of providing financial assistance to the Company in the form of (i) sales and use tax exemptions in connection with the construction of the Project, (ii) mortgage recording tax exemption(s) in connection with one or more financings undertaken by the Company in furtherance of the Project, and (iii) a partial real property tax exemption relating to the Improvements to be contained within a Payment-in-Lieu-of-Taxes Agreement ("PILOT Agreement", the general terms of which are outlined herein, and collectively with the above-described financial assistance, the "Agency Financial Assistance"). For these purposes, it is contemplated that the Agency shall either (i) transfer fee title to the Land to the Company with an immediate Lease and Leaseback Agreement executed for purposes of delivering the Agency Financial Assistance, or (ii) retain fee title to the Land and lease the Land and Facility, once constructed by the Company, to the Company in furtherance of the Project and delivery of the Agency Financial Assistance.



Section 2.5. Agency Fees. The Company, prior to or commensurate with execution and delivery of this Agreement, shall pay all outstanding consulting and legal costs incurred by the Agency in connection with the Project, up to a maximum amount of \$[\_\_\_\_\_]. The Agency and its assigns shall be responsible for payment of all costs and expenses associated with the Agency Infrastructure Project. On the Closing Date, the Company shall pay to the Agency (i) the amount of \$325,000.00 as an administrative fee in connection with the Agency's provision of the Agency Financial Assistance in furtherance of the Project; (ii) all outstanding consulting and legal costs incurred by the Agency in connection with the Project; and (iii) all other fees and costs of the Agency incidental to undertaking the Project (other than costs incurred in connection with enforcement of and/or amendment to this Agreement), including payment of any and all applicable bond issuance fees and charges assessed pursuant to PAL Section 2976, or otherwise.

### ARTICLE III LICENSE PROVISIONS

Section 3.1. Grant of License. (a) Subject and pursuant to the terms, conditions and contingencies contained within this Agreement, the Agency hereby grants to the Company an exclusive, revocable license (the "License") to enter the Land for the exclusive purposes of surveying, studying, testing, drilling, boring and otherwise analyzing the Land in connection with the planning, design and engineering of the Project, as defined herein. The License Rights shall further include the right of the Company to store certain solar panel manufacturing and warehousing tools, equipment, and materials on the Land as set forth herein (herein, the "Storage Rights").

The Company shall provide the Agency with copies of all engineering reports and test results associated with the Land and Project received by the Company during the term hereof, including, but not limited to geotechnical boring results and other reports and test results relating to the Land site conditions. The License shall be co-terminus with the Development Term, as defined herein, unless otherwise revoked by the Agency. The Agency, as Licensor, may revoke this license at any time if the Company, as Licensee, is in breach of any term or provision hereof and such breach has not been cured within Sixty (60) days of written notice of such breach has been given to the Company by the Agency.

(b) License Indemnities and Events of Default. The Company, as Licensee, does hereby protect, defend, indemnify and hold harmless the Agency, as Licensor, against any and all claims, costs, judgments, liens, or actions, including reasonable attorney's fees and costs of defense, for damage to property or injury to persons suffered on, or resulting or arising from the Company's activities on the Land, including any activities, actions, malfeasance or omissions of the Company or any officer, employee, director, agent or contractor of the Company. The provisions of this paragraph shall survive termination of this agreement. The Company further hereby protect, defend, indemnify and hold harmless the Agency, as Licensor, against any and all claims, costs,

judgments, liens, or actions, including reasonable attorney's fees and costs of defense, for claims, judgments, actions and any related liens associated with the Company's business activities as same may affect the Agency or title to the Land, including, but not limited to any action or dispute that may give rise to a lien against the Land. If at any point during the Development Term an action or proceeding (whether coupled with a lien filing or not) is threatened or initiated by a third party against the Agency or the Agency's title to the Land as a direct result of the Company's business activities relative to the Project, the Company shall be deemed in default of this Agreement unless bonded off, released of record or otherwise remedied to the Agency's satisfaction within Sixty (60) business days of written demand to cure tendered by the Agency. The Company's failure to cure such a default (whether through payment, settlement, performance or payment bond, or otherwise) within said Sixty (60) day period shall have the effect of terminating this Agreement, including all development rights, the Option and any other rights of the Company contained herein or otherwise. In all events, the Company's indemnification of the Agency and obligation to pay all Agency costs associated with the Project pursuant to Section 2.5 hereof shall survive the termination of this Agreement.

(c) License Insurance Requirements:

At all times throughout the term of this Agreement, the Company, as Licensee, shall maintain the following insurance:

(i) Worker's compensation insurance, disability benefits insurance, and each other form of insurance which the parties hereto are required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Licensee working on the Project.

(ii) Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$1,000,000 per accident or occurrence on account of personal injury, including death resulting therefrom, and \$1,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon the Licensor by any applicable workmen's compensation law; and a blanket excess liability policy in the amount not less than \$5,000,000, protecting the Agency, as Licensor, against any loss or liability or damage for personal injury or property damage.

All insurance required by this Agreement shall name the Agency, as Licensor, as an additional insured. All such insurance shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Licensee and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the Company, as Licensee, is engaged. All policies evidencing such insurance shall provide for (i) payment of the losses of the Licensee and the Agency as their respective interests may appear, and (ii) if possible, at least thirty (30) days written notice

of the cancellation thereof to the Licensee and the Agency, as Licensor. All such certificates of insurance of the insurers that such insurance is in force and effect, shall be deposited with the Agency on or before the first occasion on which Licensee is to enter on the Land for the purposes described in this Agreement. Prior to expiration of the policy evidenced by said certificates, the Licensee shall furnish the Agency evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

(d) **Storage Rights.** During the term of the License granted herein, the Company shall have the right to store certain solar panel manufacturing and warehousing tools, equipment, and materials on the Land for the exclusive purposes of equipping the Project. At least Sixty (60) days prior to exercising any Storage Rights, the Company shall provide the Agency with a proposed equipment storage plan (the "Storage Plan"), which shall propose the location for storage, the Company's proposed site preparation (including any grading, fencing, and security), confirmation of legal authority to utilize the Storage Rights, and the provision of additional bonding and/or insurance to be provided for the benefit of the Agency in the event that the License is terminated and the Agency is required to take custody of the stored equipment and materials. The Storage Plan shall be subject to the Agency's review and approval, which shall not be unreasonably withheld or delayed, but in all events the Company shall be responsible for all costs associated with the Storage Rights and shall indemnify the Agency for any and all losses and liabilities in connection with same.

#### ARTICLE IV CONTEMPLATED PILOT PROVISIONS

Section 4.1. Payment in Lieu of Tax Agreement. (a) On the Closing Date, and subject to the Agency's adoption of a project authorizing resolution, the Agency's conduct of a public hearing in accordance with the Act and Code, the Agency's distribution of any required deviation notices, and the Agency's approval following any required deviation procedures and notice period(s), the Company and the Agency contemplated entering into a PILOT Agreement which deviates from the Agency's Uniform Tax Exemption Policy ("UTEP"), collectively the foregoing being referred to as the (the "Deviation"). The PILOT Agreement shall be co-terminus with the Lease and require annual PILOT payments (the "PILOT Payments") to be made by the Company to the Agency for the benefit of the Jefferson County (the "County"), the Town of Hounsfield (the "Town") and the General Brown Central School District (the "School"), and collectively with the County and Town, the "Affected Taxing Jurisdictions"). The PILOT Agreement will extend for a term of at least Twenty (20) years from the Closing Date. The Agency and the Company shall negotiate the terms of the PILOT Agreement prior to the Agency's scheduling and conduct of a public hearing and distribution of deviation notices in accordance with the Act. The Agency and Company acknowledge and agree that pursuant to the UTEP, the undertaking of the Deviation shall require the affirmative approval of each of the Affected Taxing Jurisdictions (the "Deviation Approvals"), which are required to be secured prior to the Agency's conduct of a public hearing in accordance with the Act.

(b) The above-described PILOT Agreement shall require PILOT Payments to be made by the Company to the Agency within each PILOT year. If deemed appropriate, the Agency may elect to secure a commercially reasonable form of PILOT mortgage against the Land and Facility (the “PILOT Mortgage”) to secure PILOT Payments, such PILOT Mortgage to be secured as a priority of payment and/or lien over any mortgages or credit facilities secured by the Company in connection with the Project. The parties hereto agree that any PILOT Mortgage so recorded shall be exempt from applicable mortgage recording taxes.

## ARTICLE V CONTINGENCIES PRIOR TO PERFORMANCE

### Section 5.1. Express Contingencies.

With the exception of undertaking pre-closing activities (as further defined herein), the parties hereto shall not be obligated to perform or carry out any of the proposed undertakings for the Project, as detailed within Article VI, below, until the following express contingencies (“Express Contingencies”) are satisfied:

(a) Agency Express Contingencies:

(i) Required Agency Procedures. The Agency shall have received and reviewed an amended Application for Financial Assistance from the Company, by and through affiliate **Convall Manufacturing, LLC**, and relating to the Project. Upon receipt and review of same, subject to the Company providing the Agency with supplemental information and reports as needed by the Agency, and prior to the adoption of a project authorizing resolution, the Agency shall undertake all procedures required pursuant to the Act and UTEP, including, but not limited to, securing the Deviation Approvals and the notice and conduct of a public hearing following the distribution of deviation notices, as necessary (collectively, “Agency Procedures”).

(ii) Agency Infrastructure Project. As outlined below, the Agency shall undertake actions to plan, design, permit and construct, or cause to be constructed, certain infrastructure improvements to support the Land sufficient to provide certain roadway and electric service sufficient to permanently serve the Facility for its intended purpose (collectively, the “Agency Infrastructure Project”). Such Agency Infrastructure Project shall be undertaken at the Agency’s exclusive expense and/or at the expense of the Agency’s assigns (which may include any third party funding) and include the improvements and elements as set forth within **Exhibit C**, hereto. For the avoidance of doubt, the Agency Infrastructure Project shall include (i) the completion of sub-base and base roadway improvements with the coordination and involvement of the County, with approvals secured from the County to accept said roadway as a public thoroughfare; and (ii) the initiation of the planning, design, engineering and installation of the electrical interconnect project with Grid (as defined herein), with the Agency’s role and responsibilities limited to the payment to Grid of required deposits up to a maximum amount of \$50,000.00 to initiate design for the electrical interconnection, with all

contracts and agreements with Grid entered into by the Agency assigned to the Company. The Agency shall construct or cause to be constructed the Agency Infrastructure Project in accordance with Applicable Law and at its exclusive cost and expense, shall secure all approval(s), in non-appealable form, from any governmental authorities having jurisdiction (each a "Governmental Approval") over the Agency Infrastructure Project. The Agency previously caused the Agency Infrastructure Project to be reviewed pursuant to the State Environmental Quality Review Act ("SEQRA") by the Town of Hounsfield Planning Board (the "Planning Board") and a finding of no significant impact was issued by the Planning Board. The Agency Infrastructure Project shall be commenced by the Agency and/or its assigns on or before October 1, 2021 and substantially completed on or before June 1, 2022 and in all events fully completed prior to the end of the Development Term. For purposes of this section, the term "substantially completed" shall mean completion of all elements of the Agency Infrastructure Project, except final top coat of paving of roadways. The Company may elect to exercise the Option prior to the Agency achieving substantial completion of the Agency Infrastructure Project, subject only to the Agency and Company entering into a written work plan to coordinate contractor activities for each of the Agency Infrastructure Project and Project. The Agency, in its sole discretion and at any time during the Development Term or thereafter, may dedicate all or portions of the Agency Infrastructure Project to the Town, County, and/or National Grid ("Grid"), as applicable. To the extent necessary and convenient, the Agency shall grant the Town, County, and/or Grid with licenses, easements, deeds and/or rights-of-way to dedicate all or portions of the Agency Infrastructure Project, such easements, deeds and rights-of-way to be subject to the rights of the Company granted herein. The Company and Agency shall work cooperatively to secure approvals to dedicate roadways and other access points to establish access to the Land. In furtherance of same, and to the extent necessary, the Agency and/or its assigns shall grant to the Company and/or its assigns a supplemental license from the Agency (in substantially the form contained herein) to undertake same and the Company shall then be exclusively responsible for securing approvals necessary to dedicate such portions of the Agency Infrastructure Project to the Town, County and/or Grid, as applicable (the "Dedication Approvals"). Upon fifteen (15) days' notice by the Company to the Agency that it has secured Dedication Approvals from the Town, County and/or Grid, as applicable, the Agency shall tender the required deed(s), bill(s) of sale and any other transfer instruments necessary to effectuate same. The Agency shall require all contractors and agents working on behalf of the Agency for elements of the Agency Infrastructure Project to carry insurance with limits as set forth within Section 3.1(c) hereof, with the Agency and Company listed as additional named insureds.

(iii) Agency Authorizing Resolutions. Subject to the Agency's conduct of the Agency Procedures, the Agency shall have adopted any required resolutions necessary to undertake the Project and Agency Infrastructure Project, including Inducement and Closing Resolutions relating to the Project. The Agency's final Closing Resolution shall be considered for adoption after the Company's satisfaction of all applicable Company Express Contingencies, as defined herein.



(iv) Agency Re-subdivision of the Land. The Agency shall work cooperatively with the Company to merge the tax parcels that shall be included as components of the Land in furtherance of the Company's application for Site Plan approval, which will merge and consolidate the existing individual lots comprising the Land into a single lot to be transferred to the Company and incorporated into the Project, as well as to terminate any existing easements between the individual lots as deemed necessary by the Company (the "Re-subdivision").

(b) Company Express Contingencies:

(i) Project Design, Site Plan Approval and SEQRA. The Company, at its exclusive cost and expense, shall have completed all engineering and design activities necessary to construct the Project. The Company shall further secure all necessary Governmental Approvals relating to the Project, including any zoning and site plan approval(s) necessary to undertake the Project from the Town and/or Planning Board, subject only to those conditions that are satisfactory to the Company in the Company's sole and absolute discretion. Further, the Company shall cause the Project to be reviewed pursuant to SEQRA by an appropriate lead agency, with such SEQRA review and related classification and findings to be completed prior to the Agency's adoption of an Inducement resolution relating to the Project.

(ii) Financing Commitments. The Company shall secure firm financing commitment(s) in form and substance customary for transactions of the type contemplated by this Agreement at interest rates and on other terms acceptable to the Company in its sole discretion providing for the provision of funds sufficient to fund all costs associated with the Project (collectively, the "Financing Commitments"). Evidence of satisfaction of the Financing Commitments shall include demonstration that the Company may proceed to close with lenders within sixty (60) days.

(iii) The Company shall have secured an irrevocable Title Commitment (as defined below) for a Title Policy relating to the acquisition of an interest in the Land sufficient to undertake the Project.

(c) Other Express Contingencies:

(i) Electric Interconnect. The Company shall enter into an agreement with Grid regarding the costs and financing of the upgrade and extension of electrical service interconnect infrastructure as is necessary and/or required by Grid to provide electric supply to the Project (collectively, the "Electric Interconnect"), in final form and in compliance with Applicable Law, the terms and conditions of which shall be satisfactory to the Company in the Company's sole and absolute discretion. The Company and/or Grid may apply to the Agency for additional Agency financial assistance to facilitate the construction of the Electric Interconnect. The Agency shall provide Grid with such easements and rights of way over Agency-owned realty necessary to install and operate the Electric Interconnect.

ARTICLE VI  
PROPOSED UNDERTAKINGS FOR PROJECT; COMPANY INDEMNITIES

Section 6.1. Proposed Undertakings by the Agency.

(a) Pre-closing Activities. The Agency shall use best efforts to eliminate the Agency Express Contingencies and Other Express Contingencies as set forth in Section 5.1 above. The Agency's best efforts shall be used to carry out the Agency Procedures and to assist the Company, where appropriate, in securing any Governmental Approvals relating to the Project. Furthermore, the Agency shall use best efforts to secure Governmental Approvals for the Agency Infrastructure Project, and thereafter commence and substantially complete same in accordance with Section 5.1(a)(ii) hereof.

(b) Closing and post-closing activities. Upon satisfaction of the Express Contingencies and Other Express Contingencies as set forth within Section 5.1 above, it is contemplated that the Company will exercise the Option in accordance herewith and the Agency will transfer or lease the Land to the Company for purposes of allowing the Company to undertake the Project as agent of the Agency. In connection with the Closing, it is contemplated that the Agency will provide the Agency Financial Assistance in accordance with Act and Code to the Company.

Section 6.2. Proposed Undertakings by the Company.

(a) Undertaking of Project. The Company shall promptly undertake the Project on the Closing Date. The costs incurred by the Company in furtherance of undertaking the Project shall be 100% borne by the Company. The Company shall use best efforts in undertaking all aspects of the Project.

(b) Pre-closing activities. The Company shall use best efforts to eliminate the Company Express Contingencies set forth within Section 5.1, above. The Company's best efforts shall be used to prepare for prompt commencement of construction on the Closing Date, including: (i) to finalize all necessary plans and specifications for the Project, including finalized budget figures, which shall be provided to the Agency; (ii) to secure any and all necessary Governmental Approvals for the Project; (iii) to finalize and execute all necessary contracts for the construction of the Project (copies of which shall be provided to the Agency); (iv) to secure the Financing Commitments; and (v) such other business activities of the Company necessary to undertake the Project. Any and all contracts entered into by the Company for the construction of the Project containing any form of performance guarantee shall also list the Agency and its assigns as additional indemnified parties.

(c) Closing and post-closing activities. Upon satisfaction of the Express Contingencies set forth within Section 5.1, above, the Company may exercise the Option to acquire an interest in the Land from the Agency on the Closing Date. The Company will construct the Project pursuant to terms of this Agreement, the Lease Agreement,

applicable construction contracts, and any financing indentures, covenants and conditions.

(d) Project performance measures and timeframes. The Lease Agreement shall contain provisions requiring the Company to meet specific performance measures and timeframes for completion of the Project imposed by the Agency within the Lease Agreement, such performance measures and timeframes to be subject to the Company's exclusive approval.

(e) Project Insurance and Indemnities. The Lease Agreement will require the Company to provide appropriate insurance coverage for the Project, along with provisions whereby the Company shall indemnify the Agency and its respective assigns from any and all costs and liabilities associated with the Land and the Project.

### Section 6.3 Indemnification and Hold Harmless Provisions.

(a) Subject to the provisions contained herein or within any other agreement by and among the parties hereto, the Company hereby releases the Agency and its assigns from, agrees that the Agency, and its assigns shall not be liable for, and agrees to indemnify, defend and hold the Agency and its assigns and their executive director, officers, members, directors and employees, and their respective successors, assigns or personal representatives, harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Project arising by reason of or in connection with the occupation or the use thereof or the presence on, in or about the Land and Project or (ii) liability arising from or expense incurred by the Agency's financing, construction, renovation, equipping, owning and leasing of the Project, including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Agency or any of its members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability; except, however, that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the indemnified party to the extent that such an indemnity would be prohibited by law. The above-described indemnifications shall survive the Closing Date and during the term of the Lease Agreement.

(b) Notwithstanding any other provision contained herein or within any other agreement by and among the parties hereto, the Agency hereby releases the Company and its assigns from, agrees that the Company, and its assigns shall not be liable for, and agrees to indemnify, defend and hold the Company and its assigns and their officers, members, directors and employees, and their respective successors, assigns or personal representatives, harmless from and against any and all (i) liability for loss or damage to property or injury to or death of any and all persons that may be occasioned by any cause whatsoever pertaining to the Agency's or its assigns' undertaking of the Agency



Infrastructure Project (with the exception of any liability associated with the Company's undertaking of the Agency Infrastructure Project, as permitted herein); (ii) liability arising from or expense incurred by the Agency's or its assigns' undertaking of the Agency Infrastructure Project including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. The foregoing indemnities shall apply notwithstanding the fault or negligence on the part of the Company or any of its members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability; except, however, that such indemnities will not be applicable with respect to willful misconduct or gross negligence on the part of the indemnified party to the extent that such an indemnity would be prohibited by law. The above-described indemnifications shall survive the Closing Date and during the term of the Lease Agreement.

#### 6.4 Title Review.

During the Development Term, the Company shall order a fully guaranteed abstract (or abstracts) of title setting forth the title for the Property for at least sixty (60) years, including tax, title, and judgment searches run against the Property, all dated or redated subsequent to commencement of the Development Term, with copies of all title exception documents ("Title Commitment") in order to permit the Title Company to issue to the Company at Closing, ALTA Owner's, and to the lender(s), Lender's Title Insurance Policies (the "Title Policy"), which shall include all title endorsements required by Company and Company's lender(s), as well as the Company's members and any equity partner(s), insuring good and marketable fee simple or leasehold title to the Land,. The cost of such Title Commitment, as well as the cost of continuing such searches to and including the Closing Date shall be paid by the Company. A copy of the Title Commitment shall be provided to the Agency within Ten (10) days of receipt thereof by the Company. The Company shall review the Title Commitment and provide Agency with written notice of any objectionable title conditions. Within twenty (20) business days after its receipt of the notice from the Company of any objectionable title conditions, the Agency shall notify the Company as to whether or not the Agency shall (i) remedy the objectionable title conditions (at or prior to Closing), or (ii) at the Company's sole election, obtain the Title Company's commitment to insure over, at the Agency's cost and expense, each of the objectionable title conditions noted by the Company (the "Title Notice"). The Agency shall be required to cure objectionable title conditions other than the Permitted Exceptions, as defined within Schedule B of the Title Commitment (the "Permitted Exceptions"). Notwithstanding anything to the contrary contained herein, Permitted Exceptions shall not include and the Agency shall be obligated to cure, without limitation, objectionable title conditions that the Company expressly agrees to be responsible to cure (which shall include any title conditions created by the Company during the Development Term); exceptions for filed or unfiled mechanics' liens resulting from work performed by or at the request of the Company for the Project and/or Agency Infrastructure Project pursuant to Section 5.1(a)(ii) hereof, taxes, judgments, or other liens; the exception for defects, liens, encumbrances, adverse claims or other matters

created after the date of the Title Commitment but prior to the Closing. The parties agree to cooperate with each other to ensure that the Title Policy shall be in form and substance acceptable to the Company, and Company's lender(s), as well as the Company's members and any equity partner(s), as of the Closing Date. In the event that Closing shall fail to occur as a consequence of the Agency being unable or unwilling to deliver title to the Land as described above, the Deposit shall be returned to the Company, subject to offset as set forth within Sections 2.5 and 8.11 hereof.

## ARTICLE VII NO RECOURSE OF AGENCY

### Section 7.1. No Recourse; Special Obligation.

(a) The obligations and agreements of the Agency contained herein and any other instrument or document executed in connection herewith, and any other instrument or document supplemental thereto or hereto, shall be deemed the obligations and agreements of the Agency, and not of any member, director, officer, agent (other than the Company) or employee of the Agency in his individual capacity, and the members, officers, agents (other than the Company) and employees of the Agency shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(b) The obligations and agreements of the Agency contained herein shall not constitute or give rise to an obligation of the State or of the County of Jefferson, New York, and neither the State, nor the County of Jefferson, New York shall be liable hereon or thereon. and, further, other than those covenants and indemnities provided by the Agency to the Company herein, such obligations and agreements shall not constitute or give rise to a general obligation of the Agency, but rather shall constitute limited obligations of the Agency, as its interests may appear, payable solely from the revenues of the Agency derived and to be derived from the sale or other disposition of the Land, including the Deposit, or any indemnification or proceeds derived from the Performance Bonds, and/or insurance to be provided pursuant to Section 5.1(a)(ii), hereof.

### Section 7.2. No Joint Venture Created.

The parties hereto mutually agree that by entering into this Agreement the parties hereto are not entering into a joint venture.

## ARTICLE VIII MISCELLANEOUS PROVISIONS

### Section 8.1. Notices.

All notices, certificates and other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when delivered and, if delivered by mail, shall be sent by certified mail, postage prepaid, addressed as follows:

To the Agency:       Jefferson County Industrial Development Agency  
800 Starbuck Avenue, Suite 800  
Watertown, New York 13601  
Attn: David J. Zembiec, Chief Executive Officer

With copies to:       Harris Beach PLLC  
677 Broadway, Suite 1101  
Albany, New York 12207  
Attn: Justin S. Miller, Esq.

To the Company:       Convall Energy, Inc.  
800 Starbuck Avenue, Suite A-15  
Watertown, New York 103601  
Attn: Hari Achuthan

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

Section 8.2.   Binding Effect.

This Agreement shall inure to the benefit of and shall be binding upon the Agency, the Company and their respective successors and assigns.

Section 8.3.   Severability.

In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 8.4.   Amendments, Changes and Modifications.

This Agreement may not be amended, changed, modified, altered or terminated without the concurring written consent of the parties hereto.

Section 8.5.   Execution of Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.6.   Applicable Law.

This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York for contracts to be wholly performed therein.

Section 8.7. Recording and Filing.

This Agreement or a memorandum thereof, shall be recorded or filed, as the case may be, in the Office of the Clerk of the County of Jefferson, or in such other office as may at the time be provided by law as the proper place for the recordation or filing thereof.

Section 8.8. Survival of Obligations.

This Agreement shall survive beyond the Closing Date and the performance of the obligations of the Company to make payments required by Section 2.3. All indemnities contained herein shall survive any termination or expiration of this Agreement.

Section 8.9. Section Headings Not Controlling.

The headings of the several sections in this Agreement have been prepared for convenience of reference only and shall not control, affect the meaning or be taken as an interpretation of any provision of this Agreement.

Section 8.10. No Broker.

The Agency and the Company represent and warrant to the other that no party hereto has dealt with any broker or finder entitled to any commission, fee, or other compensation by reason of the execution of this Agreement, and each party agrees to indemnify and hold the other harmless from any charge, liability or expense (including attorneys' fees) the other may suffer, sustain, or incur with respect to any claim for a commission, fee or other compensation by a broker or finder claiming by, through or under the other party.

Section 8.11. Agreement to Pay Attorneys' Fees and Expenses.

(a) In accordance with the Application submitted by the Company, and the provisions hereof, the Company shall be responsible for payment of all reasonable attorneys' fees and expenses incurred by the Agency in connection with the within described Project. It is agreed by the parties hereto that all accrued attorneys' fees and expenses incurred by the Agency following the date hereof will be paid by the Company on the Closing Date, however, if the Company submits an Extension Request or if an Extension Term is granted and/or memorialized in accordance herewith, then all accrued attorneys' fees and expenses incurred by the Agency will be paid by the Company prior to the effectiveness of any such Extension Term. Any attorneys' fees and expenses accrued by the Agency after the Closing Date shall be paid by the Company within thirty (30) days of written request by the Agency. In the event that the Closing Date does not

occur within the Development Term provided herein, or if the Company should default under any of the provisions of this Agreement, the Lease Agreement, or any other agreement associated with the Project, and the Agency should employ attorneys or incur other expenses for the collection of amounts payable hereunder or the enforcement of performance or observance of any obligations or agreements on the part of the Company herein contained, the Company shall, within thirty (30) days of written request by the Agency, pay to the Agency all reasonable and outstanding attorneys' fees and expenses, along with the reasonable fees of attorneys and such other expenses so incurred in collecting same. In the event that the Company has satisfied all Express Contingencies and it is nonetheless necessary for the Company to submit an Extension Request due to the Agency's failure to satisfy an Express Contingency, then the Agency shall first apply the Deposit toward payment of reasonable attorneys' fees and expenses accrued by the Agency in connection with the within described Project through the commencement date of the Automatic Extension. The balance of reasonable attorneys' fees and expenses accrued by the Agency in connection with the within described Project, after application of the Deposit, shall nonetheless be due and payable by the Company prior to execution and delivery of any such extension.

(b) If the Company shall elect to exercise rights under the Performance Bonds and/or undertake the Dedication Approvals, the Agency shall pay to the Company the reasonable fees of attorneys relating to same, along with such other expenses so incurred in collecting same within thirty (30) days of written request by the Company. The Company's written request to the Agency shall be accompanied with detailed invoices and evidence of payments made relating to the Agency Infrastructure Project and Dedication Approvals.

#### Section 8.12. No Additional Waiver Implied by One Waiver.

In the event any agreement contained herein should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

#### Section 8.13. Force Majeure.

Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are proximately caused by causes beyond that party's reasonable control and occurring without its fault or negligence, including, without limitation, acts of God, war, insurrection, terrorism, natural disasters or epidemics proximate to the Project. As a condition to the claim of nonliability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

#### Section 8.14. Assignment.

(a) This Agreement may not be assigned by the Company in whole or in part except to a Related Person of the Company (as that term is defined in subparagraph (C) of paragraph three of subsection (b) of section four hundred sixty-five of the Internal Revenue Code of 1986, as amended, hereinafter "Related Person") without the prior written consent of the Agency. The Company's ability to exercise the Option by and through affiliate Convalt Manufacturing, LLC shall be subject to the provisions of this Section 8.14. A transfer in excess of 50% of the equity voting interests of the Company, other than to a Related Person of the Company, shall be deemed an assignment and require the prior written consent of the Agency. Any assignment shall be consented to by the Agency on the following conditions, as of the time of each assignment:

- (i) no assignment shall relieve the Company from primary liability for any of its obligations hereunder;
- (ii) any approved assignee shall assume the obligations of the Company hereunder to the extent of the interest assigned;
- (iii) the Company shall, within ten (10) days after the delivery thereof, furnish or cause to be furnished to the Agency a true and complete copy of such assignment and the instrument of assumption; and
- (iv) if the Agency shall so request, as of the purported effective date of any assignment pursuant to subsection (a) of this Section 8.14, the Company at its cost shall furnish to the Agency with an opinion, in form and substance satisfactory to the Agency as to items (i) and (ii) above.

(b) Any such assignment shall be subject to the review and approval by the Agency and its counsel (at no cost to the Agency; any such cost to be paid by the Company, including attorney's fees), and shall contain such terms and conditions as reasonably required by the Agency and its counsel.

#### Section 8.15. Company Right to Terminate.

The Agency acknowledges that the Company shall have the right, at its sole discretion, to terminate the Agreement and/or seek any available remedy at law or equity, including specific enforcement of the Agency's obligations hereunder. The Company's election to terminate this Agreement shall be evidenced in writing and transmitted to the Agency in accordance with Section 8.1, hereof. Termination of this Agreement by the Company shall automatically extinguish and nullify the Option and related development rights granted herein.

IN WITNESS WHEREOF, the Agency and the Company have caused this Agreement to be executed in their respective names, all as of the date first above written.

JEFFERSON COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY

By: \_\_\_\_\_  
Name: David J. Zembiec  
Title: Chief Executive Officer

CONVALT ENERGY LLC

By: \_\_\_\_\_  
Name: Hari Achuthan  
Title: President & CEO



State of New York            )  
                                      )  
County of Jefferson         )       ss.:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2021 before me, the undersigned, personally appeared **David J. Zembiec**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

State of New York        )  
                              )  
County of \_\_\_\_\_    )       ss.:

On the \_\_ day of \_\_\_\_\_ in the year 2021 before me, the undersigned, personally appeared Hari Achuthan, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public



EXHIBT A  
PROPERTY CONDITION REPORTS

EXHIBIT B  
DEPICTION OF THE LAND

EXHIBIT C  
AGENCY INFRASTRUCTURE PROJECT