

Preliminary Resolution inducing the financing of an industrial facility for East River ESS, LLC as a (Straight-Lease) Transaction

WHEREAS, New York City Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Chapter 1082 of the 1974 Laws of New York, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, civic, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

WHEREAS, East River ESS, LLC (the “Applicant”), a Delaware limited liability company, has entered into negotiations with officials of the Agency for the acquisition, construction and equipping of an approximately 100 megawatt battery storage system (consisting of 400 megawatt hours of storage capacity) (the “Battery System”), which Battery System will be enclosed in multiple containers totaling approximately 130,680 square feet, located on a 4.4 acre parcel of land at 31-03 20th Avenue in Astoria, Queens leased from the New York Power Authority (the “Facility”), all for the use by the Applicant, as a large-scale battery storage system capable of charging from, and discharging into, the New York power grid for sublease to the Agency by the Applicant, and sub-sublease by the Agency to the Applicant, and having an approximate total project cost of approximately \$132,920,334 (the “Project”); and

WHEREAS, the Applicant has submitted a Project Application (the “Application”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, the Applicant is obtaining and compiling all information necessary to allow the Agency to comply with the provisions of the State Environmental Quality Review Act (“SEQRA”), being Article 8 of the New York State Environmental Conservation Law and the implementing regulations related thereto;

WHEREAS, the Application sets forth certain information with respect to the Applicant, including that provision of financial assistance of the Agency is necessary for the feasibility of the Project; and

NOW, THEREFORE, NEW YORK CITY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:

Section 1. The proposed Project and the sublease to the Agency of the Project and the leaseback thereof by the Agency to the Applicant, would, if approved by the Agency, promote and be authorized by and in furtherance of the policy of the State as set forth in the Act.

Section 2. The officers of the Agency and other appropriate officials of the Agency and its agents and employees are hereby authorized and directed to take whatever steps may be necessary to implement the provisions of this preliminary resolution.

Section 3. The contemplated sublease of and leaseback by the Agency of the Project and the other transactions contemplated hereunder by the Agency in connection with the Project will be subject to the adoption by the Agency of a further resolution.

Section 4. Nothing herein shall be construed as committing the Agency to undertake or approve the Project, including the contemplated sublease of and leaseback by the Agency of the Project, until such time as a decision to proceed has been made and until the Agency has complied with the requirements of SEQRA. The actions taken under this preliminary resolution shall be limited to environmental, soils, engineering, economic, feasibility and other studies, surveys, subsurface investigations and preliminary planning and budgetary processes necessary to formulate the proposed Action as that term is defined under SEQRA.

Section 5. The officers of the Agency are hereby designated the authorized representatives of the Agency, and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution.

Section 6. Any expenses incurred by the Agency with respect to the Project shall be paid by the Applicant. By acceptance hereof, the Applicant agrees to pay such expenses and further agrees to indemnify the Agency, its members, directors, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency in good faith with respect to the Project.

Section 7. This Resolution shall take effect immediately

ADOPTED: July 28, 2020

Accepted: _____, 20__

EAST RIVER ESS, LLC.

By: _____
Name:
Title: