

Amended and Restated Resolution inducing the financing of an industrial facility for Solar Star Big Apple BTM, LLC, Solar Star Big Apple CDG, LLC and Solar Star Big Apple CDG B, LLC, as a Straight-Lease Transaction and authorizing and approving the execution and delivery of agreements in connection therewith

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, Solar Star Big Apple BTM, LLC, a Delaware limited liability company (“BTM”), Solar Star Big Apple CDG, LLC, a Delaware limited liability company (“CDG”), and Solar Star Big Apple CDG B, LLC, a Delaware limited liability company (“CDG-B”; and together with BTM and CDG, collectively, the “Applicants”), have entered into negotiations with officials of the Agency for three integrated projects involving the construction, equipping and installation of (i) a solar power generation facility that will provide in the aggregate 10 megawatts of alternating current (MWac), of which 5 MWac will service on-site electricity needs at John F. Kennedy Airport (without the ability to export to Consolidated Edison Inc.’s electric system) and 5 MWac of which will provide benefits for small businesses and low-to-moderate income residents in the vicinity of JFK Airport through utility bill monetary credits via the New York State Community Solar Program, and (ii) a 7.5 MWac battery storage system that will enhance energy resiliency and help maximize energy cost savings for JFK Airport (collectively, the “Project”). The Project will be comprised of: (a) with respect to Solar BTM, a project (the “Solar BTM Facility Project”), consisting of: (i) the construction and equipping of an approximately 5 MWac solar canopy system consisting of solar panels, inverters and an electrical collection system (the “BTM Solar Canopy”) and (ii) an approximately 2.5 MWac battery storage system (consisting of approximately 5 MW hours of storage capacity (the “BTM Battery System”)), which will be enclosed in multiple containers totaling 3,000 square feet and having an approximate total project cost of approximately \$35,000,000; (b) with respect to Solar CDG, a project (the “Solar CDG Facility Project”), consisting of (i) the construction and equipping of an approximately 2.5 MWac photovoltaic system consisting of solar panels, inverters and an electrical collection system (the “CDG Solar Canopy”) and (ii) an approximately 2.5 MWac battery storage system consisting of approximately 10 MW hours of storage capacity (the “CDG Battery System”), which will be enclosed in multiple containers totaling 3,500 square feet and having an approximate total project cost of approximately \$21,900,000; and (c) with respect to Solar CDG B, a project (the “Solar CDG B Facility Project”), consisting of (i) the construction and equipping of an approximately 2.5 MWac solar canopy system consisting of solar panels, inverters and an electrical collection system (the “Solar CDG B Canopy”) and (ii) an approximately 2.5 MWac battery storage system consisting of approximately 10 MW hours of storage capacity (the “CDG B Battery System”) which will be enclosed in multiple containers totaling 3,500 square feet and having an approximate total project cost of approximately \$21,900,000. The BTM Solar Canopy,

CDG Solar Canopy, and CDG B Solar Canopy (collectively, the “Canopy Facilities”) will be located on a portion of a 700,000 square foot area of John F. Kennedy Airport Long Term Parking Lot 9, Aqueduct Road in Jamaica, New York and will connect to the AirTrain Light Rail substation and the BTM Battery System, CDG Battery System, and CDG B Battery System (collectively, the “Battery Facilities”) will be located on a parcel of land north of Long-Term Parking Lot 9 bordered by Lefferts Boulevard to the East, Aqueduct Road to the South and an off ramp of the Nassau Expressway to the North (the Canopy Facilities and the Battery Facilities, together with lines of interconnection and related facilities, collectively, the “Facility”). The Facility will be operated by the Applicants on land subleased from The Port Authority of New York and New Jersey.

WHEREAS, the Applicants have submitted separate Project Applications each as amended for the Solar BTM Facility Project, the Solar CDG Facility Project and the Solar CDG B Facility Project (collectively, the “Applications”) to the Agency to initiate the accomplishment of the above; and

WHEREAS, on June 15, 2021, the Agency adopted an inducement/authorizing resolution in connection with this Project (the “Prior Resolution”); and

WHEREAS, the Applicant has indicated to the Agency that since the date of the Prior Resolution, certain changes have occurred with respect to the ownership of Applicants and the costs of the Project and has requested that the Agency move forward with a straight lease transaction incorporating such changes; and

WHEREAS, the Agency desires to amend and restate the Prior Resolution as set forth herein; and

WHEREAS, the Applications set forth certain information with respect to the Applicants and the Project, including the following: that the Applicants, are each a wholly owned subsidiary of TotalEnergies Distributed Generation Assets USA, LLC, a Delaware limited liability company, specializing in solar power generation and energy storage, which is an indirect wholly-owned subsidiary of Total Energies SE, a French multinational energy company that produces oils, biofuels, natural gas, renewables and electricity (collectively, the “Company”); that the Applicants were selected through a Request for Proposals for the development of solar panel installations at John F. Kennedy Airport (“JFK Airport”); that the proposed Project would help enable the Port Authority to reduce its greenhouse gas emissions by 35% by 2025 and advance its long-term goal of 80% reduction in all emissions by 2050, both of which are in line with goals set by the Paris Climate Agreement of 2016. Upon completion, the solar generated electricity provided to the power grid will serve small businesses and low-moderate income residents in the communities surrounding JFK Airport, who will be eligible to receive credits on their utility bills through the New York State Community Distributed Generation Program; that the Applicants expect to employ approximately 3.0 full time equivalent employees within the three years following the completion of the Project; that the Applicants must obtain Agency financial assistance in the form of straight-lease transactions to enable the Applicants to proceed with the Project and thereby commence operations in the City; that without the Agency’s financial assistance the Applicants would not be able to complete the Project, and that, based upon the financial assistance provided through the Agency, the Applicants desire to proceed with the Project and expand their operations in the City; and

WHEREAS, based upon each of the Applications, the Agency hereby determines that Agency financial assistance and related benefits in the form of straight-lease transactions between the Agency and each Applicant are necessary to induce each Applicant to expand their respective operations in the City; and

WHEREAS, in order to provide financial assistance to the Applicants for the Project, the Agency intends to grant each Applicant financial assistance through separate straight-lease transactions in the form of sales and use tax exemptions, all pursuant to the Act;

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

Section 1. The Agency hereby determines that the Project and the provision by the Agency of financial assistance to each Applicant pursuant to the Act in the form of a straight-lease transaction will promote and is authorized by and will be in furtherance of the policy of the State of New York as set forth in the Act and hereby authorizes each Applicant to proceed with the Project. The Agency further determines that

(a) the Project shall not result in the removal of any facility or plant of any Applicant or any other occupant or user of the Facility from outside of the City (but within the State of New York) to within the City or in the abandonment of one or more facilities or plants of any Applicant or any other occupant or user of the Facility located within the State of New York (but outside of the City);

(b) no funds of the Agency shall be used in connection with the Project for the purpose of preventing the establishment of an industrial or manufacturing plant or for the purpose of advertising or promotional materials which depict elected or appointed government officials in either print or electronic media, nor shall any funds of the Agency be given in connection with the Project to any group or organization which is attempting to prevent the establishment of an industrial or manufacturing plant within the State of New York; and

(c) not more than one-third of the total project cost of each Project is in respect of facilities or property primarily used in making retail sales of goods or services to customers who personally visit such facilities within the meaning of Section 862 of the New York General Municipal Law.

Section 2. To accomplish the purposes of the Act and to provide financial assistance to the Applicants for the Project, straight-lease transactions for each Applicant is hereby authorized subject to the provisions of this Resolution.

Section 3. The Agency hereby authorizes the Applicants to proceed with the Project as herein authorized. The Applicants are each authorized to proceed with the Project on behalf of the Agency as set forth in this Resolution; provided, however, that it is acknowledged and agreed by the Applicant that (i) nominal leasehold title to or other interest of the Agency in the Solar BTM Facility Project, the Solar CDG Facility Project and the Solar CDG B Facility Project shall be in the Agency for purposes of granting financial assistance, and (ii) each Applicant is hereby constituted the agent for the Agency solely for the purpose of effecting the respective

Project, and the Agency shall have no personal liability for any such action taken by any Applicant for such purpose.

Section 4. The execution and delivery of:

(a) for the Solar BTM Facility Project, an Agency Lease Agreement from the Agency subleasing the Solar BTM Facility Project to BTM (the “BTM Lease Agreement”), a Project Agreement between the Agency and BTM, a Sales Tax Agent Authorization Letter from the Agency to BTM, and, if applicable, the acceptance of a Guaranty Agreement from BTM and/or the Applicant’s owners and/or principals in favor of the Agency (each document referenced in this Section 4(a) being, collectively, the “BTM Agency Documents”), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized. The Chairperson, Vice Chairperson, Executive Director, Deputy Executive Director and General Counsel of the Agency are each hereby authorized to execute, acknowledge and deliver each such BTM Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

(b) for the Solar CDG Facility Project, an Agency Lease Agreement from the Agency subleasing the Solar CDG Facility Project to CDG (the “CDG Lease Agreement”), a Project Agreement between the Agency and CDG, a Sales Tax Agent Authorization Letter from the Agency to CDG, and, if applicable, the acceptance of a Guaranty Agreement from CDG and/or the Applicant’s owners and/or principals in favor of the Agency (each document referenced in this Section 4(b) being, collectively, the “CDG Agency Documents”), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized. The Chairperson, Vice Chairperson, Executive Director, Deputy Executive Director and General Counsel of the Agency are each hereby authorized to execute, acknowledge and deliver each such CDG Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

(c) for the Solar CDG B Facility Project, an Agency Lease Agreement from the Agency subleasing the Solar CDG B Facility Project to CDG B (the “CDG B Lease Agreement”), a Project Agreement between the Agency and CDG B, a Sales Tax Agent Authorization Letter from the Agency to CDG B, and, if applicable, the acceptance of a Guaranty Agreement from CDG B and/or the Applicant’s owners and/or principals in favor of the Agency (each document referenced in this Section 4(c) being, collectively, the “CDG B Agency Documents”; and, together with the BTM Agency Documents and the CDG Agency Documents, the “Agency Documents”), each being substantively the same as approved by the Agency for prior transactions, is hereby authorized. The Chairperson, Vice Chairperson, Executive Director, Deputy Executive Director and General Counsel of the Agency are each hereby authorized to execute, acknowledge and deliver each such CDG B Agency Document. The execution and delivery of each such agreement by one of said officers shall be conclusive evidence of due authorization and approval.

Section 5. 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 cooperate with each Applicant to assist in the Project.

Section 6. All covenants, stipulations, obligations and agreements of the Agency contained in this Resolution and contained in the Agency Documents shall be deemed to be the covenants, stipulations, obligations and agreements of the Agency to the full extent authorized or permitted by law, and such covenants, stipulations, obligations and agreements shall be binding upon the Agency and its successors from time to time and upon any board or body to which any powers or duties affecting such covenants, stipulations, obligations and agreements shall be transferred by or in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Agency or the members thereof by the provisions of this Resolution or the Agency Documents shall be exercised or performed by the Agency or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

No covenant, stipulation, obligation or agreement herein contained or contained in the Agency Documents shall be deemed to be a covenant, stipulation, obligation or agreement of any member, director, officer, agent or employee of the Agency in his or her individual capacity and neither the members nor the directors of the Agency nor any officer executing any Agency Document shall be liable personally for any amounts payable thereunder or arising from claims thereon or be subject to any personal liability or accountability by reason of the execution and delivery or acceptance thereof.

Section 7. 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. The Agency recognizes that due to the unusual complexities of the transaction it may become necessary that certain of the terms approved hereby may require modifications which will not affect the intent and substance of the authorizations and approvals by the Agency herein. The Agency hereby authorizes the Chairperson, Vice Chairperson, Executive Director, Deputy Executive Director or General Counsel to approve modifications to the terms approved hereby which do not affect the intent and substance of this Resolution. The approval of such modifications shall be evidenced by a certificate of determination of an Agency officer.

Section 8. Any expenses incurred by the Agency with respect to the Project shall be paid by each Applicant. By acceptance hereof, the Applicants agree to pay such expenses and further agree 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 9. This Resolution is subject to approval based on an investigative report with respect to each Applicant. The provisions of this Resolution shall continue to be effective for one year from the date hereof, whereupon the Agency may, at its option, terminate

the effectiveness of this Resolution (except with respect to the matters contained in Section 8 hereof).

Section 10. The Agency, as lead agency, is issuing this determination pursuant to the State Environmental Quality Review Act (“SEQRA”) (Article 8 of the Environmental Conservation Law) and implementing regulations contained in 6 N.Y.C.R.R. Part 617. This determination is based upon the Agency’s review of information provided by the Applicants and such other information as the Agency has deemed necessary and appropriate to make this determination. The Agency has determined that the proposed Project, comprised of the Solar BTM Facility Project, the Solar CDG Facility Project, and the Solar CDG B Facility Project, is an Unlisted action, pursuant to SEQRA and the implementing regulations, would not have a significant effect on the environment and that a Draft Environmental Impact Statement will not be prepared. The reasons supporting this determination are as follows:

(a) The proposed Project would not result in a substantial adverse change in existing traffic, air quality, or noise levels.

(b) The proposed Project would not result in significant adverse impacts on cultural, archaeological, architectural, or aesthetic resources or the existing neighborhood.

(c) The proposed Project would not result in significant adverse impacts to natural resources, critical habitats, or water quality. The Project is located within New York City’s Coastal Zone Boundary. Therefore, the Applicants have each completed a Waterfront Revitalization Program Consistency Assessment Form. Based on the information submitted, the Agency has determined, based on an advisory determination issued by New York City Coastal Commission, that the Project is consistent with the Waterfront Revitalization Program policies.

(d) The proposed Project would not result in a change in existing zoning or land use. The proposed use would be as-of-right under zoning.

(e) A Phase I Environmental Site Assessment was completed for this site in April 2020. From the results of the Phase I document, the Port Authority of New York & New Jersey will require the Applicants to abide by an Environmental Management Plan that outlines that any excavated soils will be tested, and soil not reused as backfill will be disposed of properly, as per applicable regulations. If the actions outlined above are followed, we do not anticipate any significant adverse impacts resulting from the proposed Project due to hazardous materials.

(f) No other significant effects upon the environment that would require the preparation of an Environmental Impact Statement are foreseeable.

Section 11. In connection with the Project, the Applicants covenant and agree to comply, and to cause each of their respective contractors, subcontractors, agents, persons or entities to comply, with the requirements of General Municipal Law Sections 875(1) and (3), as such provisions may be amended from time to time.

(1) Each Applicant acknowledges and agrees that pursuant to General Municipal Law Section 875(3) the Agency shall have the right to recover, recapture, receive, or otherwise obtain from each Applicant New York State sales or use tax savings taken or purported to be taken by each Applicant, and any agent or any other person or entity acting on behalf of each Applicant, to which any Applicant is not entitled or which are in excess of the maximum sales or use tax exemption amount authorized in Sections 12, 13 and 14 of this Resolution or which are for property or services not authorized or taken in cases where any Applicant, or any agent or any other person or entity acting on behalf of any Applicant, failed to comply with a material term or condition to use property or services in the manner required by this Resolution or any agreements entered into among the Agency, any Applicant and/or any agent or any other person or entity acting on behalf of any Applicant. Each Applicant shall, and shall require each agent and any other person or entity acting on behalf of each Applicant, to cooperate with the Agency in its efforts to recover, recapture, receive, or otherwise obtain such New York State sales or use tax savings and shall promptly pay over any such amounts to the Agency that it requests. The failure to pay over such amounts to the Agency shall be grounds for the Commissioner of the New York State Department of Taxation and Finance (the "Commissioner") to assess and determine New York State sales or use taxes due from each Applicant under Article Twenty-Eight of the New York State Tax Law, together with any relevant penalties and interest due on such amounts.

(2) Each Applicant is hereby notified (provided that such notification is not a covenant or obligation and does not create a duty on the part of the Agency to any Applicant or any other party) that the Agency is subject to certain requirements under the General Municipal Law, including the following:

(i) In accordance with General Municipal Law Section 875(3)(c), if the Agency recovers, recaptures, receives, or otherwise obtains, any amount of New York State sales or use tax savings from any Applicant, any agent or other person or entity, the Agency shall, within thirty days of coming into possession of such amount, remit it to the Commissioner, together with such information and report that the Commissioner deems necessary to administer payment over of such amount. The Agency shall join the Commissioner as a party in any action or proceeding that the Agency commences to recover, recapture, obtain, or otherwise seek the return of, New York State sales or use tax savings from any Applicant or any other agent, person or entity.

(ii) In accordance with General Municipal Law Section 875(3)(d), the Agency shall prepare an annual compliance report detailing its terms and conditions described in General Municipal Law Section 875(3)(a) and its activities and efforts to recover, recapture, receive, or otherwise obtain State sales or user tax savings described in General Municipal Law Section 875(3)(b), together with such other information as the Commissioner and the New York State Commissioner of Economic Development may require. Such report shall be filed with the Commissioner, the Director of the Division of the Budget of The State of New York, the New York State Commissioner of Economic Development, the New York State Comptroller, the Council of the City of New York, and may be included with the annual financial statement required by General Municipal Law Section 859(1)(b). Such report shall be filed regardless of whether the Agency is required to file such financial statement described by General Municipal Law Section 859(1)(b). The failure to file or substantially complete such report shall be deemed to be the failure to

file or substantially complete the statement required by such General Municipal Law Section 859(1)(b), and the consequences shall be the same as provided in General Municipal Law Section 859(1)(e).

(3) The foregoing requirements of this Section 11 shall apply to any amounts of New York State sales or use tax savings that the Agency recovers, recaptures, receives, or otherwise obtains, regardless of whether the Agency, any Applicant, or any agent or other person or entity acting on behalf of any Applicant characterizes such benefits recovered, recaptured, received, or otherwise obtained, as a penalty or liquidated or contract damages or otherwise. The foregoing requirements shall also apply to any interest or penalty that the Agency imposes on any such amounts or that are imposed on such amounts by operation of law or by judicial order or otherwise. Any such amounts or payments that the Agency recovers, recaptures, receives, or otherwise obtains, together with any interest or penalties thereon, shall be deemed to be New York State sales or use taxes and the Agency shall receive any such amounts or payments, whether as a result of court action or otherwise, as trustee for and on account of New York State.

Section 12. In connection with the BTM Facility, the Agency intends to grant BTM sales and use tax exemptions in an amount not to exceed \$2,049,392 consistent with the policies of the Agency.

Section 13. In connection with the CDG Facility, the Agency intends to grant CDG sales and use tax exemptions in an amount not to exceed \$1,358,636 consistent with the policies of the Agency.

Section 14. In connection with the CDG B Facility, the Agency intends to grant CDG sales and use tax exemptions in an amount not to exceed \$1,358,636 consistent with the policies of the Agency.

Section 15. The Agency hereby waives its policy that the Agency will publish a public notice with respect to the Project and post all public notices on its website in each case at least thirty (30) days prior to the public hearing noticed therein, as such requirements are set forth in Section 2 of the Omnibus Resolution of the Agency, adopted on September 12, 2006, with respect to the public notice in connection with the Project.

Section 16. This Resolution shall take effect immediately.

ADOPTED: July 23, 2024

Accepted: _____, 2024

Solar Star Big Apple BTM, LLC

By: _____
Name:
Title:

Solar Star Big Apple CDG, LLC

By: _____
Name:
Title:

Solar Star Big Apple CDG B, LLC

By: _____
Name:
Title: