

INITIAL RESOLUTION
(Empire State Pipeline/Empire Pipeline, Inc.)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Wednesday, January 23, 2007 at 8:00 a.m.

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

Resolution No. 2007 - 02

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (i) ACCEPTING THE APPLICATION OF EMPIRE STATE PIPELINE/EMPIRE PIPELINE, INC. WITH RESPECT TO A CERTAIN PROJECT (AS DESCRIBED BELOW) LOCATED THROUGHOUT GENESEE COUNTY, NEW YORK; (ii) AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE PROJECT; AND (iii) DESCRIBING THE FORMS OF FINANCIAL ASSISTANCE BEING CONTEMPLATED BY THE AGENCY WITH RESPECT TO THE PROJECT

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 565 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), **GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY d/b/a GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER** (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, **EMPIRE STATE PIPELINE/EMPIRE PIPELINE, INC.** (the "Company") has submitted an application (the "Application") to the Agency requesting the Agency's assistance with a certain project (the "Project") consisting of (i) the acquisition by the Agency of fee title to, a leasehold or other interest in certain property located at 3261 Lockport Road, Oakfield, and certain other properties located throughout Genesee County, New York and the existing improvements located thereon (the "Land"), (ii) the construction and equipping on the Land of (1) a 20,620 horsepower compressor station and (2) a portion of the Company's 78.3 mile 24-inch diameter natural gas pipeline beginning in Victor, New York and traversing the Finger Lakes region through the counties of Genesee, Ontario, Yates, Schuyler, Chemung and Steuben, and terminating in Corning, New York (the compressor station and the portion of such gas pipeline located in Genesee County, hereafter referred to collectively as the "Improvements"), and (iii) the acquisition in and around the Improvements of certain items of equipment and other tangible personal property including pipes, valves, meters, fittings, and compressors (the "Equipment" and, collectively with the Land and the Improvements, the "Facility"); and

WHEREAS, pursuant to Article 18-A of the General Municipal Law, the Agency desires to adopt a resolution describing the Project and the financial assistance that the Agency is contemplating with respect to the Project; and

WHEREAS, it is contemplated that the Agency will hold a public hearing and (i) negotiate an agent agreement (the "Agent Agreement"), pursuant to which the Agency will appoint the Company as its agent for the purpose of acquiring, constructing and equipping the Facility (the "Agent Agreement"), (ii) negotiate and enter into a lease agreement (the "Lease Agreement"), leaseback agreement (the "Leaseback Agreement") and payment-in-lieu-of-tax agreement (the "PILOT Agreement"), (iii) take title to or a leasehold interest in the Land, the Existing Improvements, the Improvements, the Equipment and personal property constituting the Facility (once the Lease Agreement, Leaseback Agreement and PILOT Agreement have been negotiated), and (iv) provide financial assistance to the Company in the form of (a) a sales and use tax exemption for purchases and rentals related to the acquisition, construction and equipping of the Facility, (b) a partial real property tax abatement structured within the PILOT Agreement, and (c) a mortgage recording tax exemption for financing or re-financing related to the Project (collectively, the "Financial Assistance").

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER AS FOLLOWS:

Section 1. The Company has presented an Application in a form acceptable to the Agency. Based upon the representations made by the Company to the Agency in the Company's Application, the Agency hereby finds and determines that:

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

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

(D) Although the Project will result in the abandonment of one or more plants or facilities of the Company located within the State, the Agency hereby finds that, based on the Company's Application, the Project is reasonably necessary to discourage the Company 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 Company in its industry.

Section 2. The Chairman, Vice Chairman, Executive Vice President and/or the President/CEO of the Agency are hereby authorized, on behalf of the Agency, to hold a public hearing in compliance with the Act and negotiate the terms of (A) an Agent Agreement, pursuant

to which the Agency appoints the Company as its agent to undertake the Project, (B) a Lease Agreement, pursuant to which the Company leases its interest in the Facility to the Agency, (C) a related Leaseback Agreement, pursuant to which the Agency conveys its interest in the Facility back to the Company, (D) the PILOT Agreement and (E) related documents; *provided*, the provisions of the Agent Agreement and the rental payments under the Leaseback Agreement include payments of all costs incurred by the Agency arising out of or related to the Project and indemnification of the Agency by the Company for actions taken by the Company and/or claims arising out of or related to the Project.

Section 3. The Agency is hereby authorized to conduct a public hearing in compliance with the Act.

Section 4. The officers, employees and agents of the Agency are hereby authorized and directed for and 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 5. These Resolutions shall take effect immediately.

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

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
John F. Andrews	[]	[]	[✓]	[]
James L. Vincent	[✓]	[]	[]	[]
James W. Fulmer	[]	[]	[✓]	[]
Hollis Upson	[✓]	[]	[]	[]
Michael Gerber	[✓]	[]	[]	[]
L. William Benton	[]	[]	[✓]	[]
Wolcott T. Hinchey	[✓]	[]	[]	[]

The Resolutions were thereupon duly adopted.