

AUTHORIZING RESOLUTION
(Purchase and Sale of Real Property – Plug Power Inc.)

A regular meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center was convened on Thursday, March 4th, 2021.

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

Resolution No. 03/2021 - 07

RESOLUTION OF THE GENESEE COUNTY INDUSTRIAL DEVELOPMENT AGENCY D/B/A GENESEE COUNTY ECONOMIC DEVELOPMENT CENTER (THE "AGENCY") AUTHORIZING (i) THE SALE OF CERTAIN AGENCY OWNED REAL PROPERTY TO PLUG POWER INC., OR ITS PERMITTED ASSIGNS (ii) THE EXECUTION OF A PURCHASE AND SALE AGREEMENT, AND (iii) A DEED, AND RELATED DOCUMENTS IN CONNECTION WITH THE CLOSING OF THE PURCHASE AND SALE OF THE REAL PROPERTY.

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"), the **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 industrial, manufacturing and commercial facilities as authorized by the Act; and

WHEREAS, among other property, the Agency owns approximately 97.7 acres of vacant land located at Crosby Road, in the Town of Alabama, Genesee County, New York designated with tax account number 10.-1-42 and approximately .87 acres of vacant land located at Crosby Road, in the Town of Alabama, Genesee County, New York designated with tax account number 10.-1-41 (together, the "Primary Land"); and

WHEREAS, **PLUG POWER INC.** and its permitted assigns (the "Company") has offered to purchase a portion of the Primary Land (29.884± acres) in connection with a certain project to be undertaken by the Company (the "Project") thereon pursuant to the terms and conditions of that certain Purchase and Sale Agreement, the form of which is attached hereto as Exhibit A (the "Purchase and Sale Agreement"); and

WHEREAS, among other property, the Agency also owns approximately 182.1 acres of vacant land located at Judge Road, in the Town of Alabama, Genesee County, New York designated with tax account number 10.-1-43.12 (the "Judge Road Land"); and

WHEREAS, the Company also wishes to enter into a Right of First Refusal with regard to the potential purchase of a portion of the Judge Road Land (26.764± acres; the "ROFR Land" and

together with the Primary Land, the "Land") in connection with the Project and pursuant to the terms and conditions of the Purchase and Sale Agreement; and

WHEREAS, pursuant to the New York State Environmental Quality Review Act ("SEQR") the Agency, in conjunction with the Genesee Gateway Local Development Corporation ("GGLDC"), as lead agency pursuant to SEQR, has reviewed the Project proposed upon the acquisition of the Primary Land and the potential acquisition of the ROFR Land as set forth in the Purchase and Sale Agreement, which is a Type I action, and has determined that the Project has met the requirements of 6 N.Y.C.R.R. Part 617 and consistent with the social, economic and other essential considerations from among reasonable alternatives available, the Project avoids or minimizes adverse environmental effects to the maximum extent practicable and that adverse environmental impacts will be avoided or minimized to the maximum extent practicable all as more specifically set forth in that certain resolution of the Agency pursuant to SEQR certified by the Secretary of the Agency on February 4, 2021 and attached hereto and made a part hereof as Exhibit A; and

WHEREAS, the Agency desires to adopt a resolution authorizing (i) the sale of the Primary Land to the Company (ii) the execution of the Purchase and Sale Agreement, (iii) the granting of the Right of First Refusal with respect to the ROFR Land, and (iv) execution of deed(s) and other related documents in connection with the purchase and sale of the Primary Land and the granting of a Right of First Refusal with respect to the ROFR Land (the "Closing Documents"); and

WHEREAS, the Purchase and Sale Agreement in connection therewith has been negotiated and is presented to this meeting for approval and execution.

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 above recitals are incorporated herein and made a part hereof.

Section 2. The Agency is hereby authorized to sell the Primary Land to the Company and grant a Right of First Refusal with respect to the ROFR Land pursuant to the terms and conditions of the Purchase and Sale Agreement.

Section 3. The Chairman, Vice Chairman, President/CEO and/or Senior Vice President of Operations of the Agency are hereby authorized to execute the Purchase and Sale Agreement and the Closing Documents in connection with the closing of the purchase and sale of the Primary Land and the granting of the Right of First Refusal with respect to the ROFR Land.

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. Harris Beach PLLC shall be entitled to attorney fees, exclusive of third party costs (i.e. recording costs, survey, etc.) not to exceed \$25,000.00 based upon time and billing and subject to no title, governmental approval and/or environmental issues and no litigation arising in connection with the purchase and sale of the Land.

Section 6. 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:

	<i>Yea</i>	<i>Nay</i>	<i>Absent</i>	<i>Abstain</i>
Peter Zeliff	[X]	[]	[]	[]
Matthew Gray	[X]	[]	[]	[]
Paul Battaglia	[X]	[]	[]	[]
Craig Yunker	[X]	[]	[]	[]
Todd Bender	[X]	[]	[]	[]
Amy Vanderhoof	[X]	[]	[]	[]
Chad Klotzbach	[X]	[]	[]	[]

The Resolutions were thereupon duly adopted.

CERTIFICATION

(Purchase and Sale of Real Property – Plug Power Inc.)

STATE OF NEW YORK)
COUNTY OF GENESEE) ss.:

I, the undersigned Secretary of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center, DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the Genesee County Industrial Development Agency d/b/a Genesee County Economic Development Center (the "Agency"), including the resolution contained therein, held on March 4th, 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 4th day of March, 2021.


Secretary