

## **AUTHORIZING RESOLUTION**

*(Covington Solar 1, LLC and Covington Solar 2 LLC Projects – Town of Fort Covington  
Adoption of Combined SEQRA Determination)*

A regular meeting of the County of Franklin Industrial Development Agency was convened on May 27, 2021.

The meeting was called to order by the Chairman, with the following members being:

PRESENT:

ABSENT:

THE FOLLOWING PERSONS WERE ALSO PRESENT:

On motion duly made and seconded, the following resolution was placed before the members of the County of Franklin Industrial Development Agency:

Resolution No. 2021 - 16

RESOLUTION OF THE COUNTY OF FRANKLIN INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”) MAKING A DETERMINATION PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (“SEQRA”) WITH RESPECT TO CERTAIN PROJECTS BEING CONSIDERED 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 453 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the “Act”), the **COUNTY OF FRANKLIN INDUSTRIAL DEVELOPMENT AGENCY** (hereinafter called “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, by resolution adopted March 23, 2021 (the “CS1 Initial Project Resolution”), the Agency accepted an application from **COVINGTON SOLAR 1, LLC** (the “CS1 Company”) in connection with a certain project (the “CS1 Project”) consisting of: (i) the acquisition by the Agency of a leasehold interest in approximately 10.10 acres of real property located at State Route 37 in the Town of Fort Covington, New York (the “CS1 Land”), being more particularly described as a portion of tax parcel No. 23.-3-2.100, as may be subdivided); (ii) the planning, design, construction and operation of a 2MWAC solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the “CS1 Improvements”); (iii) the acquisition of and installation in and around the CS1 Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the “CS1 Equipment” and, collectively with, the CS1 Land and the CS1 Improvements, the “CS1 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 CS1 Facility for a period of time and sublease such interest in the Facility back to the Company (the “CS1 Straight Lease Transaction”); and

WHEREAS, pursuant to the CS1 Initial Project Resolution, the Agency acknowledged that it is required to review the proposed CS1 Project pursuant to the State Environmental Quality Review Act, as codified under Article 8 of the Environmental Conservation law and regulations adopted pursuant thereto by the Department of Environmental Conservation of the State (collectively, “SEQRA”) for which the Agency has established itself as Lead Agency for SEQRA review purposes; and

WHEREAS, by resolution also adopted March 23, 2021 (the “CS2 Initial Project Resolution”), the Agency accepted an application from **COVINGTON SOLAR 2, LLC** (the “CS2 Company”) in connection with a certain project (the “CS2 Project”) consisting of: (i) the acquisition by the Agency of a leasehold interest in approximately 40.33 acres of real property located at State Route 37 in the Town of Fort Covington, New York (the “CS2 Land”), being more particularly described as a portion of tax parcel No. 23.-3-2.100, as may be subdivided); (ii) the planning, design, construction and operation of a 4.2MWAC solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the “CS2 Improvements”); (iii) the acquisition of and installation in and around the CS2 Land and CS2 Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the “CS2 Equipment” and, collectively with, the CS2 Land and the CS2 Improvements, the “CS2 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 CS2 Facility for a period of time and sublease such interest in the other CS2 Facility back to the CS2 Company (the “CS2 Straight Lease Transaction”); and

WHEREAS, pursuant to the CS2 Initial Project Resolution, the Agency acknowledged that it is required to review the proposed CS2 Project pursuant to SEQRA, for which the Agency has established itself as Lead Agency for SEQRA review purposes; and

WHEREAS, pursuant to and in accordance with SEQRA, the Agency is required to undertake a review of and requisite “hard look” at any action which may cause a significant impact to the environment, and given the close proximity, nexus and affiliation of the CS1 Project and CS2 Project, and their cumulative potential impacts, the Agency has elected to undertake the combined and coordinated review of same as lead agency in accordance with SEQRA as a combined “Type I Action” as defined pursuant to SEQRA, and in furtherance of same, the CS1 Project and CS2 Project shall hereinafter be collectively referred to as the “Project”); and

WHEREAS, pursuant to its prior determination to conduct a coordinated review of the Project under SEQRA, the Agency issued lead agency solicitation notices and transmitted same to identified involved agencies, including a completed Part 1 of the Full Environmental Assessment Form (“FEAF”) to: (i) the County of Franklin (the “County”), (ii) the Town of Fort Covington (the “Town”), (iii) the New York State Department of Parks, Recreation and Historic Preservation (“SHPO”) (iv) the New York State Department of Transportation (“NYSDOT”) and

(v) the New York State Department of Environmental Conservation (“DEC”, and collectively with the County, Town, SHPO and NYSDOT, the “Involved Agencies”), pursuant to which the Agency has received waivers from said Involved Agencies and/or the lead agency solicitation period has expired and therefore the Agency has been installed as lead agency for purposes of the reviewing the Project pursuant to SEQRA; and

WHEREAS, in accordance with the Agency’s role as “lead agency” for purposes of the coordinated review of the Project pursuant to SEQRA, the Agency (i) circulated Part 1 of the FEAF to the Involved Agencies, and reviewed all comments and responses received from them (the “Involved Agency Comments”), (ii) prepared and reviewed Parts 2 and 3 of the FEAF, along with reviewing and analyzing each of the plans, specifications and studies submitted by the CS1 Company and CS2 Company, in connection with the Project; and (iii) engaged North Woods Engineering, PLLC as the Agency’s consulting engineer (“North Woods”) to assist the Agency with the review of the Project pursuant to and in accordance with SEQRA; and

WHEREAS, in addition to the applications and supporting materials received in connection with the Project, the FEAF and the Involved Agency Comments, the Agency has received (i) a written review, assessment and recommendations from North Woods, dated March 29, 2021 (the “North Woods Report”), and (ii) certain additional studies and reports from the CS1 Company and CS2 Company (collectively with applications and supporting materials received in connection with the Project, the FEAF and the Involved Agency Comments, the foregoing hereinafter being referred to as the “SEQRA Documents”); and

WHEREAS, as detailed below, and upon review and analysis of the SEQRA Documents and upon review and consideration of the potential impacts presented by the Project, and analyzing same in light of the applicable criteria under SEQRA, the Agency has completed the requisite “hard look” review of the Project required pursuant to SEQRA and applicable case law by reviewing and analyzing the SEQRA Documents, and in particular the North Woods Report, along with other documents and materials; and

WHEREAS, as more particularly set forth below, the Agency has determined that the Project will not result in any significant adverse environmental impact, and as such, no draft environmental impact statement is required to be prepared, and therefor this resolution together with the SEQRA Documents shall constitute the Agency’s adoption of a Negative Declaration in connection with the Project.

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

Section 1. Based upon the Agency’s review of the SEQRA Documents, along with associated EAF Mappers for the site of the Project, the Agency hereby:

(a) confirms the Project is a Type I action, as such term is defined pursuant to SEQRA, and that the Agency arranged for notice of its intent to act as lead agency to the Involved Agencies and 30 days have elapsed since such notices were transmitted,

(b) confirms that no Involved Agency objected to the Agency serving as lead agency or confirmed in writing that it has no objection to the Agency serving as lead agency for purposes of review of the Project pursuant to SEQRA, and as a result, the Agency has conducted a coordinated review of the Project, within the meaning of, and for all purposes of complying with SEQRA; and

(c) finds that based upon the Agency's review of the SEQRA Documents, including a detailed review of the Involve Agency Comments, the Agency has identified the relevant areas of environmental concern with respect to potential impacts from them to land, storm water and groundwater, wetlands, historic, archaeological and other recognized and/or protected resources, threatened or endangered species, community character and cumulative impacts, if any, and other potential impacts as required by applicable regulations; and

(d) confirms that it has considered the criteria set forth in 6 NYCRR Part 617.7(c) and thoroughly analyzed the identified areas of relevant environmental concern, and based upon the Agency's review of the SEQRA Documents, the Project will not have a significant negative impact on the environment, and therefore no environmental impact statement will be prepared for the Project for the reasons stated herein including those summarized below; and

(e) confirms that the foregoing finding by the Agency that the Project will not have a significant negative impact on the environment, the Agency has reviewed and considered the following matters, among others: (i) for purposes of addressing stormwater and groundwater impacts, the Project includes the construction of infiltration basins and other associated measures; (ii) to address potential impacts to wetlands from the Project (though DEC noted the absence of any significant wetlands on the sites at issue) any wetlands shall be avoided as possible to avoid any impacts, and in addition other measures shall be utilized to avoid such impacts including the use of box culverts for certain crossings; (iii) to avoid impact to streams or waterbodies including a channel that is being relocated appropriate mitigation measures will be implemented. Further, while a portion of the Project is contained in an Agricultural District, the loss of any agricultural lands from operation of the Project is minimized due to the location of the solar arrays at issue and the loss or failure to use areas that are or could be used as farmland is not anticipated to be significant, and in any event, the owner of property located within the Project site has agreed to provide a waiver associated with any agricultural property or property rights as recognized under the Agricultural and Markets Law and such waiver shall be secured prior to and as a condition of the initiation of any work or action associated with the Project. In addition, a habitat assessment was performed due to the potential for impacts on the habitat of the northern harrier which also included a request for DEC consultation through its Division of Fish and Wildlife, and based on the foregoing DEC determined that based upon the existing use of the CS1 Land and CS2 Land the manner in which the Project is to be constructed and operated that there would be no significant adverse impact to same.

Section 2. Based upon the foregoing review and findings, the Agency hereby adopts a “Negative Declaration”, as defined pursuant to SEQRA and with respect to the Project.

Section 3. 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 4. This Resolution 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><b>YEA</b></i>	<i><b>NEA</b></i>	<i><b>ABSTAIN</b></i>	<i><b>ABSENT</b></i>
Justus Martin	[     ]	[     ]	[     ]	[     ]
James Ellis	[     ]	[     ]	[     ]	[     ]
Michael Doran	[     ]	[     ]	[     ]	[     ]
Stephen Erman	[     ]	[     ]	[     ]	[     ]
Madelyn Fleury	[     ]	[     ]	[     ]	[     ]
Sherry Boyea	[     ]	[     ]	[     ]	[     ]
Archie McKee	[     ]	[     ]	[     ]	[     ]

The Resolution was thereupon duly adopted.

STATE OF NEW YORK )  
COUNTY OF FRANKLIN ) SS:

I, the undersigned Secretary of the County of Franklin Industrial Development Agency,  
DO HEREBY CERTIFY:

That I have compared the annexed extract of minutes of the meeting of the County of Franklin Industrial Development Agency (the “Agency”), including the resolution contained therein, held on May 27, 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 \_\_\_\_ day of \_\_\_\_\_, 2021.

Secretary

[SEAL]