

**RESOLUTION AUTHORIZING ASSIGNMENT AND ASSUMPTION
VISTA REAL ESTATE DEVELOPMENT LLC PROJECT
125 VISTA BOULEVARD**

A regular meeting of the Albany County Industrial Development Agency (the “Agency”) was convened in public session at 111 Washington Avenue, Suite 100 in the City of Albany, Albany County, New York on March 4, 2025 at 4:00 o’clock p.m., local time.

The meeting was called to order by the (Vice) Chairperson of the Agency and, upon roll being called, the following members of the Agency were:

PRESENT:

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Michael J. Paparian	Chairman
Dennis Feeney	Vice Chairman
Marlene McTigue	Secretary
William Murphy	Treasurer
Anton Dreslin	Assistant Secretary
Paul Nylin	Member

ABSENT:

Hon. Wanda Willingham	Member
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AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:

Kevin O’Connor	Chief Executive Officer
Amy Thompson	Chief Financial Officer
Christopher C. Canada, Esq.	Agency Counsel

The following resolution was offered by Anton Dreslin, seconded by Dennis Feeney, to wit:

Resolution No. 0325-____

RESOLUTION CONSENTING TO AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN DOCUMENTS WITH RESPECT TO THE ASSIGNMENT AND ASSUMPTION OF THE VISTA REAL ESTATE DEVELOPMENT LLC PROJECT.

WHEREAS, Albany County Industrial Development Agency (the “Agency”) is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the “Enabling Act”) and Chapter 178 of the 1975 Laws of New York, as amended, constituting Section 903-b of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the “Act”) to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial, research and recreation facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New

York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act) or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, on June 7, 2022, the Agency provided certain benefits to Vista Real Estate Development LLC (the “Company”), a limited liability company duly organized and validly existing under the laws of the State of New York in connection with the following project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in a ± 26.0 acre portion of an approximately 97.37 acre parcel of land located at 125 Vista Boulevard in the Town of Bethlehem and the Town of New Scotland, each located in Albany County, New York (the “Land”), (2) the construction on the Land of the following buildings and improvements: a one-story building to contain approximately 200,000 square feet of space, a two-story building to contain approximately 50,000 square feet of space and a one-story building to contain approximately 100,000 square feet of space and associated parking (collectively, the “Facility”), and (3) the acquisition and installation therein and thereon of certain machinery and equipment (the “Equipment”) (the Land, the Facility and the Equipment being collectively referred to as the “Project Facility”), all of the foregoing to constitute a commercial and industrial facility to be owned by the Company and leased to Plug Power for commercial, manufacturing and warehouse space and directly and indirectly related uses; (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes (the “Financial Assistance”); and (C) the lease of the Project Facility to the Company pursuant to a lease agreement dated as of June 1, 2022 (the “Lease Agreement”) between the Agency and the Company; and

WHEREAS, simultaneously with the execution and delivery of the Lease Agreement (the “Closing”), (A) the Company executed and delivered to the Agency (1) a certain lease to Agency dated as of June 1, 2022 (the “Lease to Agency”) from the Company to the Agency, (2) a certain license agreement dated as of June 1, 2022 (the “License to Agency”) by and between the Company, as licensor, and the Agency, as licensee, pursuant to which the Company granted to the Agency (a) a license to enter upon the balance of the Land (the “Licensed Premises”) for the purpose of undertaking and completing the Project and (b) in the event of an occurrence of an Event of Default by the Company, an additional license to enter upon the Licensed Premises for the purpose of pursuing its remedies under the Lease Agreement, (3) a bill of sale dated as of June 1, 2022 (the “Bill of Sale to Agency”), which conveyed to the Agency all right, title and interest of the Company in the Equipment and (4) a payment in lieu of tax agreement dated as of June 1, 2022 (the “Payment in Lieu of Tax Agreement”) by and between the Agency and the Company, pursuant to which the Company agreed to pay certain payments in lieu of taxes with respect to the Project Facility and (B) the Agency (1) mailed to the assessor and the chief executive officer of each “affected tax jurisdiction” (within the meaning of such quoted term in Section 854(16) of the Act) a copy of a New York State Board of Real Property Services Form 412-a (the form required to be filed by the Agency in order for the Agency to obtain a real property tax exemption with respect to the Project Facility under Section 412-a of the Real Property Tax Law) (the “Real Property Tax Exemption Form”) relating to the Project Facility and the Payment in Lieu of Tax Agreement and (2) executed and delivered to the Company a sales tax exemption letter (the “Sales Tax Exemption Letter”) to ensure the granting of the sales tax exemption which forms a part of the Financial Assistance (collectively, with the Lease Agreement, the “Basic Documents”); and

WHEREAS, in May, 2022, the Agency was informed that the Land is owned by Campus Associates XI LLC (“Campus”). Campus entered into a ground lease with the Company; and

WHEREAS, as the Project is part of the Vista Project (as defined in the Lease Agreement), the Town of Bethlehem Industrial Development Agency ("TBIDA"), Vista Development Group LLC ("Vista"), Campus and ML, L.P. (the "Holder"), as holder of the TBIDA's Pilot Revenue Bond (Vista Public Infrastructure Project), Series 2011A in the principal amount of not to exceed \$6,750,000 (the "Bond"), entered into the following documents: (A) a splitter agreement dated as of June 1, 2022 (the "Splitter Agreement") by and among TBIDA, Vista and the Holder, (B) a partial termination of the underlying lease agreement dated as of June 1, 2022 (the "Partial Termination of Underlying Lease Agreement") by and between TBIDA and Vista, (C) a partial termination of master lease agreement dated as of June 1, 2022 (the "Partial Termination of Master Lease Agreement") by and between TBIDA and Vista, (D) a partial termination of payment in lieu of tax agreement dated as of June 1, 2022 (the "Partial Termination of PILOT Agreement") by and between TBIDA and Vista, (E) a partial release of payment in lieu of tax agreement mortgage dated as of June 1, 2022 (the "Partial Release of PILOT Mortgage") from the Holder, (F) a tenth amended PILOT agreement dated as of June 1, 2022 (the "Tenth Amended PILOT Agreement") by and between TBIDA and Vista, (G) a tenth amended PILOT mortgage dated as of June 1, 2022 (the "Tenth Amended PILOT Mortgage") from TBIDA and Vista to the Holder, (H) a payment in lieu of tax agreement dated as of June 1, 2022 (the "Vista/Plug Power (Splitter) PILOT Agreement") by and between TBIDA and Campus, (I) a payment in lieu of tax agreement mortgage dated as of June 1, 2022 (the "Vista/Plug Power (Splitter) PILOT Mortgage", and (J) an indemnification agreement by and between Campus and the TBIDA (the "Indemnification Agreement") and collectively with the foregoing documents, the "Splitter Documents") from TBIDA and Campus to the Holder; and

WHEREAS, pursuant to an application (the "Application") submitted to the Agency by 125 Vista Owner LLC, a limited liability company organized and existing under the laws of the State of New York (the "New Company"), the Agency was notified that the Company desires to convey the Project Facility and its interests in the Basic Documents to the New Company and, in connection with such conveyance, provide for the assignment of the Basic Documents from the Company to the New Company, as described in the Application; and

WHEREAS, the Lease Agreement provides that the Company is prohibited from selling, leasing, transferring or otherwise conveying any part of the Project Facility without the prior written consent of the Agency; and

WHEREAS, in connection with the conveyance of the Project Facility, the Company and the New Company have requested (the "Request") that the Agency execute documents providing for the following (the "Conveyance and Assignment Documents"): the consent by the Agency of the conveyance of the Project Facility and the assignment and assumption of the Basic Documents from the Current Company to the New Company; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, Chapter 43-B of the Consolidated Laws of New York, as amended (the "SEQR Act") and the regulations adopted pursuant thereto by the Department of Environmental Conservation of the State of New York, being 6 NYCRR Part 617, as amended (the "Regulations" and collectively with the SEQR Act, "SEQRA"), the Agency must satisfy the requirements contained in SEQRA prior to making a final determination whether to proceed with the execution and delivery of the Conveyance and Assignment Documents; and

WHEREAS, pursuant to SEQRA, the Agency has reviewed the Application and the Request in order to make a determination as to whether the execution and delivery of the Conveyance and Assignment Documents and is subject to SEQRA, and it appears that the Request is not an "Action" under SEQRA;

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

Section 1. Based upon an examination of the Request, the Agency hereby makes the following determinations:

(A) Pursuant to SEQRA, the approval of the Request is not an "Action" under SEQRA and therefore is not subject to SEQRA review by the Agency.

(B) The Agency will not be granting any mortgage recording tax exemption relating to the Request.

(C) That since compliance by the Agency with the Request will not result in the Agency providing more than \$100,000 of "financial assistance" (as such quoted term is defined in the Act) to the New Company, Section 859-a of the Act does not require a public hearing to be held with respect to the Request.

Section 2. The Agency hereby approves (A) the assignment to, and assumption by, the New Company of all of the Company's interest in the Project Facility, and the Basic Documents, including but not limited to the benefits of the Lease Agreement and the Payment in Lieu of Tax Agreement and (B) the assumption by the New Company of all obligations of the Company under the Basic Documents pursuant to an assignment and assumption agreement (the "Assignment and Assumption Agreement"); subject in each case, however to the following conditions: (1) receipt of confirmation that all real property taxes and payments in lieu of taxes required by the Project have been satisfied; (2) evidence of current certificates of insurance acceptable to the Agency; (3) receipt of confirmation from Agency counsel that no modifications shall result from the Request that result in any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); (4) receipt by Agency Counsel of the written consent of the Holder and of any current holder of any current mortgage on the Project Facility OR evidence that there are no security documents filed relating to the Project; (5) compliance with the terms and conditions contained in the Assignment and Assumption Agreement and the Basic Documents; (6) approval by counsel to the Agency of the form of the documents to be executed by the Agency in connection with the assignment and assumption, including the Assignment and Assumption Agreement (collectively, the "Assignment Documents"); (7) receipt by the Agency of its administrative fee relating to the Request, as reviewed by the Chair or Chief Executive Officer and Agency Counsel, and all fees and expenses incurred by the Agency with respect to the Request, including the fees and expenses incurred by Agency counsel with respect thereto; and (8) the following additional conditions: None.

Section 3. Subject to (A) satisfaction of the conditions contained in Section 2 hereof, including the condition that no modifications provide any new tax relief for the Project (such as an extension of the term, increase in abatement or change in the Payment in Lieu of Tax Agreement); and (B) the execution and delivery of the Assignment Documents by the other parties thereto, the Chair (or Vice Chair) or Chief Executive Officer of the Agency is hereby authorized, on behalf of the Agency, to execute and deliver the Assignment Documents, and, where appropriate, the Secretary (or Assistant Secretary) of the Agency is hereby authorized to affix the seal of the Agency thereto and to attest the same, all in substantially the forms thereof approved by Counsel to the Agency, with such changes, variations, omissions and insertions as the Chair (or Vice Chair) or Chief Executive Officer shall approve, the execution thereof by the Chair (or Vice Chair) or Chief Executive Officer to constitute conclusive evidence of such approval.

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 or provided for by the provisions of the Request, and to execute and deliver all such additional 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 Resolution and to cause compliance by the Agency with all of the terms, covenants and provisions of the Request.

Section 5. 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:

Michael Paparian	VOTING	YES
Dennis Feeney	VOTING	YES
Marlene McTigue	VOTING	YES
William Murphy	VOTING	YES
Anton Dreslin	VOTING	YES
Paul Nylin	VOTING	YES
Hon. Wanda Willingham	VOTING	ABSENT

The foregoing Resolution was thereupon declared duly adopted.

STATE OF NEW YORK)
)SS.:
COUNTY OF ALBANY)

I, the undersigned (Assistant) Secretary of Albany County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on March 4, 2025 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law"), said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) 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 rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 4th day of March, 2025.



(Assistant) Secretary

(S E A L)