

TOWN BOARD SPECIAL MEETING
AUGUST 1, 2018

A Special Meeting of the Town Board of the Town of Somerset, County of Niagara and the State of New York was held at the Town Hall, 8700 Haight Road, Barker, New York on the 1st day of August 2018.

Present: Daniel M. Engert ----- Supervisor
Robin R. Jansen ----- Councilwoman
Jeffrey M. Dewart ----- Councilman
Chris Bronson----- Councilwoman
Jon Hotaling ----- Councilman
Stephanie Stoloski ----- Deputy Town Clerk
David Haylett----- Attorney

Absent: Mindy Austin ----- Confidential Secretary
Michael M. Flint ----- Supt. of Highways
Melvin H. Denny ----- Supt of Water/Sewer/Grounds
Brian Sibiga ----- Engineer

Attended by: 2 residents

Notice of said meeting sent to the Lockport Union-Sun and Journal on July 25, 2018 with same notice being posted at the Town Hall and on the website on the same day.

Supervisor Engert called the meeting to order at 4:00PM with the Pledge to the Flag.

A motion was proposed by Councilwoman Jansen to forego reading the resolution out loud as it was sent and read by all members present prior to the meeting. Motion seconded by Councilman Dewart, and carried.

RESOLUTION 101-2018

**RESOLUTION CONSENTING TO THE EXTENSION OF A PILOT AGREEMENT
BETWEEN THE NIAGARA COUNTY INDUSTRIAL DEVELOPMENT AGENCY AND
SOMERSET OPERATING COMPANY, LLC.**

On a motion of Councilwoman Jansen, seconded by Councilman Dewart, the following resolution was

ADOPTED	Ayes	5	Engert, Jansen, Dewart, Bronson, Hotaling
	Nays	0	

WHEREAS, the Niagara County Industrial Development Agency ("Agency") and AES Eastern Energy L.P. and AES Somerset, LLC ("AES") previously entered into a relationship whereby the parties executed and delivered the following documents: (i) Lease Agreement between AES and Agency, (ii) a Leaseback Agreement between Agency and AES and (iii) a Payment-in-Lieu-of-Tax Agreement between the Agency and AES, and

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WHEREAS, in 2012 AES transferred its interest in and to the electrical generating station in Somerset, New York ("Facility") to Somerset Operating Company, LLC ("Company") and the Company assumed AES's interest in and to the Facility and the project documents pursuant to an Assignment and Assumption Agreement and Restated PILOT Agreement, dated on or about June 26, 2012 (the "Assigned Agreements"), and

WHEREAS, in February, 2015, the Agency and Company executed among other documents, a First Amendment to Amended and Restated Lease Agreement ("2016 Amended Lease"), an Amendment to Amended and Restated Leaseback Agreement ("2016 Amended Leaseback") and 2016 Amended and Restated Payment-in-Lieu-of-Tax Agreement ("2016 Amended PILOT"); and

WHEREAS, in 2016, the Agency and Company executed among other documents, an Amendment to Amended and Restated Lease Agreement ("First Amended Lease"), a First Amendment to Amended and Restated Leaseback Agreement ("First Amended

Leaseback") and 2015 Amended and Restated Payment-in-Lieu-of-Tax Agreement ("2015 Amended PILOT"); and

WHEREAS, the 2016 Amended PILOT Agreement is set to expire on December 31, 2018;and

WHEREAS, the Company has now submitted to the Agency a new application requesting a two (2) year extension of the 2016 Amended PILOT Agreement, and reducing the PILOT amount paid to a total of \$3,000,000.00 per year, inclusive of special district taxes, ad valorem levy, assessment or special assessment or service charge ("Special Districts") while retaining the remaining terms and conditions of the 2016 Amended PILOT Agreement; and

WHEREAS, it has been requested that the Town of Somerset, as one of the affected taxing jurisdictions, (i) supports the application to the Agency; (ii) consents to the two (2) year extension of the 2016 Amended PILOT Agreement through December 31, 2020; and (iii) consents to the allocation of PILOT payments as set forth herein; now, therefore, be it

RESOLVED, that the Town of Somerset does hereby supports the application of the Company to the Agency, consents to an extension of the 2016 Amended PILOT Agreement along terms set forth above between the Company and the Agency for the electrical generating station in Somerset, New York through December 31, 2020, and further consents to the allocation of PILOT payments as follows:

1. The total PILOT Agreement payment to be paid by the Company for the County of Niagara and Town of Somerset for the tax year 2019 and the Barker Central School District for the tax year 2018-2019 shall be \$3,000,000.00;

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2. The total PILOT Agreement payment to be paid by the Company for the County of Niagara and Town of Somerset for the tax year 2020 and the Barker Central School District for the tax year 2019-2020 shall be \$3,000,000.00;

3. Niagara County shall continue to receive 31.5% of the PILOT payment, the Town of Somerset shall continue to receive 9.25% and the Barker Central School District shall continue to receive 59.25%; and

4. Niagara County shall continue to pay for its Special Districts from its portion of the PILOT payments and the Town of Somerset shall continue to pay for its Special Districts from its portion of the PILOT payment, and be it further

RESOLVED, that the Town of Somerset does hereby authorize the Supervisor of the Town of Somerset to execute all agreements, stipulations and other documents as may be required.

On a motion of Councilwoman Jansen, seconded by Councilwoman Bronson, the meeting adjourned at 4:05P.M.

Stephanie Stoloski
Deputy Town Clerk