

**RESOLUTION OF THE WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY AUTHORIZING THE CONSTRUCTION AND EQUIPPING OF A PROJECT BY TEXAS BRINE NEW YORK, LLC TO BE LOCATED IN THE TOWN OF MIDDLEBURY FOR LEASE TO THE AGENCY AND SUBSEQUENT LEASE TO TEXAS BRINE NEW YORK, LLC, THE EXECUTION OF LEASE AGREEMENTS, A NON-STANDARD PILOT AGREEMENT AND THE TAKING OF OTHER ACTIONS.**

**WHEREAS**, the Wyoming County Industrial Development Agency (the “Agency”) is authorized under the laws of the State of New York, and in particular the New York State Industrial Development Agency Act, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended, and Section 901-b of the General Municipal Law, as amended (collectively, the “Act”), to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of industrial, manufacturing, warehousing, commercial and research facilities and thereby advance the job opportunities, general prosperity and economic welfare of the people of the State of New York and to improve their prosperity and standard of living; and

**WHEREAS**, Texas Brine New York, LLC, for itself or for related individuals or entities (the “Company”), has entered into negotiations with officials of the Agency with respect to the Agency’s provision of financial assistance with respect to the drilling of new brine wells and the construction and installation of brine well infrastructure for the Company’s solution mining operations (the “Project”) and the conveyance of the Project pursuant to a lease of the Project to the Company, such Project to be located at 1346 Saltvale Road and the real property tax parcels identified on Schedule A attached hereto (the “Premises”), all located in the Town of Middlebury, New York; and

**WHEREAS**, the Company has submitted an application and other materials and information (collectively, the “Application”) to the Agency to initiate the accomplishment of the above; and

**WHEREAS**, the Application sets forth certain information with respect to the Company and the Project, including the following: (i) that the Company desires Agency financing for the Company’s solution mining operations located at the Premises in the Town of Middlebury, New York; (ii) that the total cost of the Project is approximately \$21,005,275.00 over a ten-year period; (iii) that the Project will be used for solution mining purposes; (iv) that the Company anticipates that ten full-time employees will be retained as a result of the Project; (v) that the Project will retain present employment and provide substantial capital investment; (vi) that if Agency financing is disapproved, there is a likelihood that the Company would not proceed with the Project; and (vii) that, therefore, Agency financing is necessary to encourage the Company to proceed with the Project; and

**WHEREAS**, the Agency has reviewed the Application and a cost-benefit analysis with respect to the Project, including the extent to which the Project will retain permanent, private-sector jobs, the value of the real property tax abatement to be provided, the amount of private sector

investment generated or likely to be generated by the Project, the likelihood of accomplishing the proposed Project in a timely fashion, the extent to which the proposed Project will provide additional sources of revenue for the municipalities and school district and other public benefits that might occur as a result of the Project; and

**WHEREAS**, the Company has requested that the Agency consider entering into an agreement for payment in lieu of taxes (“PILOT”) that deviates from the Agency’s standard PILOT schedule set forth in the Agency’s Uniform Tax Exemption Policy (the “UTEP”); and

**WHEREAS**, in accordance with Section 5 of the UTEP, the Agency may deviate from its standard PILOT schedule if the Agency determines that a Project will have a significant impact in the locality where it is located, and the Agency anticipates that the Project will have a significant impact in the Town of Middlebury, New York; and

**WHEREAS**, pursuant to Section 874(4)(b) of the General Municipal Law and the UTEP, the Agency duly issued a notice of deviation to the affected taxing jurisdictions in connection with the proposed non-standard PILOT agreement for the Project; and

**WHEREAS**, after the giving of all required notices (including published notice), the Agency held a public hearing on the Project at 10:00 a.m. on January 3, 2019, and has considered all oral and written presentations made at or in connection with said public hearing; and

**WHEREAS**, the Company has entered into a host community agreement with the Town of Middlebury in connection with the Project; and

**WHEREAS**, the Agency desires to encourage the Company with respect to the consummation of the Project, if by doing so it is able to induce the Company to proceed with the Project; and

**WHEREAS**, by separate resolution adopted by the Agency, the Agency affirmed and adopted the negative declaration issued by the NYSDEC for the Project and determined that the Project will not result in any significant adverse environmental impacts under SEQRA.

**NOW, THEREFORE, THE WYOMING COUNTY INDUSTRIAL DEVELOPMENT AGENCY HEREBY RESOLVES AS FOLLOWS:**

**Section 1.** The Project is described in the recitals to this Resolution. The financial assistance (the “Financial Assistance”) to be provided by the Agency in connection with the Project includes a ten-year abatement from real property taxes in accordance with the non-standard payment in lieu of tax schedule set forth in Schedule B attached hereto, which provides for payment by the Company of an annual Payment in Lieu of Real Estate Taxes (“PILOT”) in an amount equal to the product of (a) a fixed base value, as set forth on Schedule B, multiplied by (b) the affected taxing jurisdictions’ annual property tax rates for the applicable tax fiscal year. The PILOT payment will be divided among the affected taxing jurisdictions on a pro rata basis, with each taxing jurisdiction’s share for each year determined by dividing that taxing jurisdiction’s tax rate for the then current tax fiscal year by the total of all tax rates for the

affected taxing jurisdictions for the then current tax fiscal year. The payment in lieu of tax arrangement shall be set forth in a Payment in Lieu of Real Estate Taxes Agreement to be entered into between the Agency and the Company (the "PILOT Agreement").

**Section 2.** The Agency has considered the amount of private sector investment likely to be generated by the Project and other factors regarding the Project and hereby determines that the Project is expected to have a significant impact in the Town of Middlebury, New York, and accordingly the aforementioned deviation from the Agency's standard PILOT schedule is warranted.

**Section 3.** In addition to any other covenants, obligations and agreements which may be contained in the Project Documents (as hereinafter defined), the provision by the Agency of the Financial Assistance is made subject to the agreement by the Company throughout the period during which the Company is receiving Financial Assistance from the Agency (the "Compliance Period") to comply with the following covenants and agreements, each of which shall constitute a "Material Factor": (i) the retention of existing full-time equivalent employment of ten jobs and retention of such jobs throughout the Compliance Period.

**Section 4.** The Agency hereby determines that the Project and the financing thereof by the Agency pursuant to Article 18-A of the General Municipal Law will promote and is authorized by and will be in furtherance of the policy of the State as set forth in said Act. The Agency further finds, based on the Application, that the Project will serve the public purpose of Article 18-A of the General Municipal Law by preserving permanent, private sector jobs.

**Section 5.** The Agency hereby authorizes the Company, as agent for the Agency, to proceed with the Project as herein authorized. The Agency is hereby authorized to acquire an interest in the Project site and the buildings thereon, if any, and to make renovations or additions thereto. The Company is authorized to proceed with the acquisition and construction of the Project as set forth in the Project Assistance Agreement and the Agency Lease Agreement (as hereinafter defined).

**Section 6.** The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, and Assistant Secretary of the Agency, and other appropriate officials of the Agency and its agents and employees, are hereby authorized and directed to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution and to complete the Project in cooperation with the Company.

**Section 7.** The Agency is hereby authorized to enter into a Project Assistance Agreement with respect to the provision of the Financial Assistance authorized herein (the "Project Assistance Agreement") and to acquire an interest in the Project site and construct a facility thereon, and the execution and delivery of a lease by the Company to the Agency (the "Company Lease"), an Agency Lease Agreement (the "Agency Lease Agreement") between the Agency and the Company, the PILOT Agreement, and such other documents as may be necessary to fulfill the intent of the parties to the transaction (collectively, the "Project Documents"), in a form satisfactory to Agency counsel, are hereby authorized. The Chairman, Vice Chairman, Executive Director, Secretary, Treasurer, or any Assistant Secretary are each authorized to execute such documents and to make or approve such amendments or modifications to the Project Agreement, Company Lease, the Agency

Lease Agreement, the PILOT Agreement and such other documents executed and delivered in connection therewith as they deem necessary under the circumstances provided, however, that such modifications do not materially alter the risk to the Agency.

**Section 8.** Any such action heretofore taken by the Company initiating the acquisition, installation and construction of the Project is hereby ratified, confirmed and approved.

**Section 9.** Any expenses incurred by the Agency with respect to the Project and the financing thereof shall be paid by the Company. By acceptance hereof, the Company agrees to pay such expenses and further agrees to indemnify the Agency, its members, employees and agents and hold the Agency and such persons harmless against claims for losses, damage or injury or any expenses or damages incurred as a result of action taken by or on behalf of the Agency with respect to the Project and the financing thereof.

**Section 10.** In the event the Agency determines that the Company is in violation of a Material Factor, or in the event that the Company closes the Project or relocates its operations to a location outside of Wyoming County within the time period during which the Company is receiving Financial Assistance from the Agency, or in the event the Agency determines, in its sole judgment, that the Company knowingly and intentionally submitted false or intentionally misleading information in its Application to the Agency or in any report or certification submitted to the Agency for the purpose of obtaining or maintaining any Financial Assistance from the Agency (each referred to herein as a "Recapture Event"), the Agency may in its sole discretion and in accordance with its policies and procedures then in effect, (a) require that the Company, commencing with the tax fiscal year next following such Recapture Event make payments in lieu of taxes on the Project with respect to all applicable taxing authorities in such amounts as would be payable as real estate taxes levied on the Project if the Agency did not have an interest in the Project or otherwise modify the amount or terms of any Financial Assistance being provided by the Agency in connection with the Project and/or (b) require that the Company pay to the Agency an amount equal to all or a portion (as determined by the Agency in its discretion) of the total value of any exemption from real estate taxes received by reason of the Agency's leasehold interest in the Project. If the Agency makes any of the foregoing determinations and requires a repayment of all or a portion of the Financial Assistance received by the Company, the Company shall (a) cooperate with the Agency in its efforts to recover or recapture any or all Financial Assistance obtained by the Company and (b) promptly pay over any or all such amounts to the Agency that the Agency demands in connection therewith. Upon receipt of such amounts, the Agency shall then redistribute such amounts to the appropriate affected tax jurisdiction(s) unless otherwise agreed to by any affected tax jurisdiction.

**Section 11.** The Agency has made and makes no representation or warranty whatsoever, either express or implied, with respect to the merchantability, condition, environmental status, fitness, design, operation or workmanship of any part of the Project, its fitness for any particular purpose, the quality or capacity of the materials in the Project, or the suitability of the Project for the Company's purposes or needs. The Company is satisfied that the Project is suitable and fit for its purposes. The Agency shall not be liable in any manner whatsoever to anyone for any loss, damage or expense of any kind or nature caused, directly or indirectly, by the Project property or the use or maintenance thereof or the failure of operation thereof, or the repair, service or adjustment thereof,

or by any delay or failure to provide any such maintenance, repairs, service or adjustment, or by any interruption of service or loss of use thereof or for any loss of business howsoever caused, and the Company hereby indemnifies and holds the Agency harmless from any such loss, damage or expense.

**Section 12.** No covenant, stipulation, obligation or agreement herein contained or contained in the Project Assistance Agreement, the Company Lease, the Agency Lease Agreement, the PILOT Agreement or other documents, nor the breach thereof, shall constitute or give rise to or impose upon the Agency a pecuniary liability or a charge upon its general credit, nor shall be deemed to be a covenant, stipulation, obligation or agreement of any member, officer, agent or employee of the Agency in his or her individual capacity.

**Section 13.** Should the Agency's participation in the Project be challenged by any party, in the courts or otherwise, the Company shall defend, indemnify and hold harmless the Agency and its members, officers and employees from any and all losses arising from any such challenge including, but not limited to, the fees and disbursements of the Agency's counsel. Should any court of competent jurisdiction determine that the Agency is not authorized under Article 18-A of the General Municipal Law to participate in the Project, this Resolution shall automatically become null, void and of no further force and effect, and the Agency shall have no liability to the Company hereunder or otherwise.

**Section 14.** This Resolution shall take effect immediately and shall continue in full force and effect for one (1) year from the date hereof and on or after such one (1) year anniversary, the Agency may, at its option (a) terminate the effectiveness of this Resolution (except with respect to the obligations of the Company pursuant to Sections 9 and 10 of this Resolution which shall survive any expiration or termination) or (b) allow the Company additional time in which to close the transactions contemplated by this Resolution based upon affirmative actions taken by the Company to complete such transactions.

ADOPTED: January 3, 2019

ACCEPTED AND AGREED TO: January 7, 2019

TEXAS BRINE NEW YORK, LLC

By: Brian Stacy  
Name: Brian Stacy  
Title: President

**SCHEDULE A**

<b>Address</b>	<b>SBL#</b>
Saltvale VL	36.00-1-28
1346 Saltvale Rd	36.00-1-29.12
Saltvale VL	49.00-1-26.12
Cowie Rd VL	49.00-1-26.2
Saltvale Rd VL	49.00-1-27
Dillion Rd VL	49.00-1-42.11
LaGrange Rd VL	49.00-1-44
Saltvale Rd VL	49.00-1-46.1
Saltvale Rd VL	49.00-1-47.1
1455 Saltvale Rd	49.00-1-47.2
Saltvale Rd VL	49.00-1-50
Saltvale Rd VL	49.00-1-51.1
1625 Saltvale Rd	49.00-1-52
Canaway Rd VL	49.00-1-55.112
Canaway Rd VL	49.00-1-55.113
Saltvale Rd VL	49.00-1-69
Canaway Rd VL	62.00-1-6.21
Brine Pipeline	638.089-9999-844.820/1
4" & 8" Distr piping	86.00-1
Gravel Roads	86.00-2
12" stl return line 50% brine	86.00-3
Elec Control Bldg	86.00-4
Wiring	86.00-5
Brine Wells	86.00-6
Water Wells	86.00-8

**SCHEDULE B**

<b>Taxable Fiscal Year</b>	<b>Fixed Base Value</b>
Year 1	\$7,000,000.00
Year 2	\$7,175,000.00
Year 3	\$7,354,375.00
Year 4	\$7,538,234.30
Year 5	\$7,726,690.10
Year 6	\$7,919,857.30
Year 7	\$8,117,853.70
Year 8	\$8,320,800.00
Year 9	\$8,528,820.00
Year 10	\$8,742,040.50