

INDUCEMENT RESOLUTION

A regular meeting of the County of Oswego Industrial Development Agency was convened in public session on October 15, 2010, at 9:00 a.m., at 44 West Bridge Street, Oswego, New York.

The meeting was called to order by the Chair and, upon the roll being duly called, the following members were:

PRESENT: Jonathan Daniels, Donald H. Kunzwiler, Arthur W. Ospelt,
Carolyn A. Rush, Morris Sorbello, and Gary T. Toth

ABSENT: H. Leonard Schick

ALSO PRESENT: L. Michael Treadwell, David S. Dano and Kevin C.
Caraccioli

The following resolution was duly offered and seconded:

RESOLUTION UNDERTAKING THE ACQUISITION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF A CERTAIN PROJECT; APPOINTING SUNOCO, INC. AGENT OF THE AGENCY FOR THE PURPOSE OF THE ACQUISITION, RECONSTRUCTION, RENOVATION AND EQUIPPING OF THE PROJECT; APPROVING FINANCIAL ASSISTANCE IN THE FORM OF SALES AND USE TAX EXEMPTIONS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN AGREEMENT BETWEEN THE AGENCY AND SUNOCO, INC.

WHEREAS, the County of Oswego Industrial Development Agency (the “**Agency**”) is authorized and empowered by Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “**State**”), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, 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, including industrial pollution control facilities, railroad facilities and certain horse racing facilities, for the purpose of promoting, attracting, encouraging and developing recreation and economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, 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 grant “financial assistance” (as defined in the Act) in connection with the acquisition, reconstruction, renovation and equipping of one or more “projects” (as defined in the Act); and

WHEREAS, Sunoco, Inc. a Pennsylvania corporation (the “*Company*”), submitted an application to the Agency on or about August 2, 2010 (“*Application*”), a copy of which is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “*Project*”) consisting of: (A) (i) the acquisition of a leasehold interest, or the continuation thereof, in approximately 91 acres of improved real property located at 376 Owen Road in the Town of Volney, New York, Oswego County (the “*Land*”); (ii) certain renovations to the approximate 300,000 square foot building for the ongoing operation and production of ethanol for blending with gasoline (collectively the “*Facility*”), all located on the Land; (iii) the acquisition, installation and renovation of machinery and equipment located in the Facility to be used in the production of ethanol (collectively the “*Equipment*”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “*Project Facility*”); (B) the granting of certain financial assistance in the form of exemption from sales and use taxation (collectively, the “*Financial Assistance*”); and (C) the lease of the Project Facility by the Agency pursuant to a lease agreement and the lease of the Project Facility back to the Company pursuant to a sublease agreement; and

WHEREAS, the Agency conducted a public hearing with respect to the Project and the proposed Financial Assistance on September 29, 2010 pursuant to Section 859-a of the Act, notice of which was published on September 18, 2010 in the Palladium-Times, a newspaper of general circulation in the County of Oswego, New York and given to the chief executive officers of the affected tax jurisdictions by letter dated September 17, 2010; and

WHEREAS, the Agency adopted a resolution on September 16, 2010 describing the Project and the requested financial assistance and authorizing a public hearing (“*Initial Resolution*”); and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as “*SEQRA*”), the Agency is required to make a determination whether the “action” (as said quoted term is defined in SEQRA) to be taken by the Agency may have a “significant impact on the environment” (as said quoted term is utilized in SEQRA), and the preliminary agreement of the Agency to undertake of the Project constitutes such an action; and

WHEREAS, the Agency acted as lead agency for the purpose of conducting an uncoordinated environmental review of the Project under SEQRA, 6 NYCRR Part 617, and determined that the Project constitutes an “Unlisted Action” under SEQRA, will not result in any significant adverse environmental impacts and issued a negative declaration for the Project dated October 15, 2010; and

WHEREAS, the Agency has given due consideration to the Application and to representations by the Company that the provision of Financial Assistance (i) will induce the Company to further develop the Project Facility in the County of Oswego, and (ii) will not result in the removal of a commercial, industrial or manufacturing plant or facility of the Company or any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act;

NOW, THEREFORE, be it resolved by the members of the County of Oswego Industrial Development Agency, as follows:

Section 1. It is the policy of the State to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry for the purpose of preventing unemployment and economic deterioration. It is among the purposes of the Agency to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of certain facilities, including commercial facilities, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the State and to improve their recreation opportunities, prosperity and standard of living.

Section 2. Based upon the representations and projections made by the Company to the Agency, the Agency makes the following determinations:

- a. Ratifies the findings in its Initial Resolution;
- b. The granting of the Financial Assistance will be an inducement to the Company to further develop the Project Facility in the Town of Volney, County of Oswego.
- c. The commitment of the Agency to provide Financial Assistance to the Company will enable the Company to renovate the Project Facility and help to ensure the continued physical and financial viability of the Project.
- d. The renovation and improvement of the Project Facility will promote employment opportunities and prevent economic deterioration in the Town of Volney by the creation and preservation of both full and part-time jobs.
- e. The renovation of the Project Facility and the attendant promotion of the local economy will advance the job opportunities, health, prosperity and economic welfare of the people of the County of Oswego and the granting of the other Financial Assistance is necessary to finance the costs of the acquisition and renovation of the Project.
- f. The Project will not result in the removal of any commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the

abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State, except as may be permitted by the Act.

- g. The Project is located in an economic development zone.

Section 3. Subject to the conditions set forth in Section 4.02 of the Agreement (hereinafter defined), the Agency has or will (i) acquire a, or continue its, controlling interest in the Project Facility pursuant to a lease agreement (the “***Company Lease***”) entered into between the Company, or its predecessor, and the Agency; (ii) sublease the Project Facility to the Company pursuant to an agreement (the “***Agency Lease***” and with the Lease, the “***Lease Documents***”) entered into between the Agency and the Company, or its predecessor; (iii) grant the approved Financial Assistance; (iv) provided that no default shall have occurred and be continuing under the Lease Documents or any loan documents, execute and deliver all other certificates and documents necessary or appropriate for the grant of the Financial Assistance requested by the Company, in form and substance acceptable to the Agency, or its commercial lender(s) in connection with financing for the Project.

Section 4. The form and substance of the proposed agreement (in the form and on the terms and conditions as presented at this meeting and attached hereto as **Exhibit “A”**) (the “***Agreement***”) between the Agency and the Company setting forth the preliminary undertakings of the Agency and the Company with respect to the Project Facility are hereby approved. The Chief Executive Officer or (Vice) Chairperson of the Agency are each hereby authorized, on behalf of the Agency, to execute and deliver the Agreement, in substantially the same form as presented at this meeting and attached hereto as Exhibit “A”, with changes in terms and form as shall be consistent with this Resolution and as the Chief Executive Officer or (Vice) Chairperson shall approve consistent with this Resolution. The execution thereof by the Chief Executive Officer or (Vice) Chairperson shall constitute conclusive evidence of such approval.

Section 5. Subject to the due execution and delivery by the Company of the Agreement, the Company is appointed the true and lawful agent of the Agency to proceed with the Project, all with the same powers and the same validity as if the Agency were acting in its own behalf. The appointment made by this Section 5 shall not be effective until the Agreement referred to in Section 4 hereof is duly executed and delivered by the Company.

Section 6. A copy of this Resolution, together with the attachments hereto, shall be placed on file in the office of the Agency where the same shall be available for public inspection during business hours.

Section 7. The Chief Executive Officer of the Agency is hereby authorized and directed to distribute copies of this Resolution to the Company and to do such further things or perform such acts as may be necessary or convenient to implement the provisions of this Resolution.

Section 8. Counsel to the Agency and special Agency counsel are hereby authorized to work with the Company, and others to prepare, for submission to the Agency, all documents

necessary to effect the grant of Financial Assistance.

Section 9. This Resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>	<u>Absent</u>
Jonathan Daniels	X			
Donald H. Kunzwiler	X			
Arthur W. Ospelt	X			
Carolyn A. Rush	X			
H. Leonard Schick				X
Morris Sorbello	X			
Gary T. Toth	X			

The resolution was thereupon declared duly adopted.

Exhibit A

AGENCY/COMPANY AGREEMENT

AGREEMENT

This Agreement is between the County of Oswego Industrial Development Agency (the “**Agency**”), and Sunoco, Inc., a Pennsylvania corporation, authorized to conduct business in the State of New York (the “**Company**”).

Article 1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

1.01. The Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law of the State of New York (the “**State**”), as amended, together with Chapter 234 of the Laws of 1973 of the State of New York, as amended from time to time (collectively, the “**Act**”) to grant “financial assistance” (as defined in the Act) in connection with “Projects” (as defined in the Act) and to lease or sell the same upon such terms and conditions as the Agency may deem advisable.

1.02. The purposes of the Act are to promote, attract, encourage and develop recreation and economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, to improve their recreation opportunities, prosperity and standard of living, and to prevent unemployment and economic deterioration. The Act vests the Agency with all powers necessary to enable it to accomplish such purposes, including the power to grant financial assistance.

1.03. The Company has requested that the Agency undertake a project (the “**Project**”) consisting of: (A) (i) the acquisition of a leasehold interest, or the continuation thereof, in approximately 91 acres of improved real property located at 376 Owen Road in the Town of Volney, New York, Oswego County (the “**Land**”); (ii) certain renovations to the approximate 300,000 square foot building for the ongoing operation and production of ethanol for blending with gasoline (collectively the “**Facility**”), all located on the Land; (iii) the acquisition, installation and renovation of machinery and equipment located in the Facility to be used in the production of ethanol (collectively the “**Equipment**”) (the Land, Facility and Equipment are hereinafter collectively referred to as the “**Project Facility**”); (B) the granting of certain financial assistance in the form of exemption from sales and use taxation (collectively, the “**Financial Assistance**”); and (C) the lease, or continuation thereof, of the Project Facility by the Agency pursuant to a lease agreement and the lease of the Project Facility back to the Company pursuant to a sublease agreement, or continuation thereof.

1.04. The Company hereby represents to the Agency that undertaking the Project, the appointment of the Company as the agent of the Agency for the acquisition, reconstruction, renovation, and equipping of the Project Facility and the grant of Financial Assistance (A) will be an inducement to it to further develop and operate the Project Facility in

the County of Oswego, and (B) will not result in the removal of any commercial, industrial or manufacturing plant or facility of the Company or of any other proposed occupant of the Project Facility from one area of the State to another area of the State or in the abandonment of one or more plants or facilities of the Company or any other proposed occupant of the Project Facility located in the State.

1.05. On October 15, 2010, the Agency adopted a resolution (the “**Inducement Resolution**”) determining that the reconstruction, renovation and equipping of the Project Facility and the continued leasing of the same to the Company will promote and further the purposes of the Act.

1.06 In the Resolution, subject to the execution of this Agreement by the Company and other conditions set forth therein and herein the Agency has agreed to appoint the Company as its agent for the purposes of reconstruction, renovation and equipping the Project Facility, entering into contracts and doing all things requisite and proper for renovating and equipping the Project Facility.

Article 2. Undertakings on the Part of the Agency. Based upon the statements, representations and undertakings of the Company and subject to the conditions set forth herein, the Agency agrees as follows:

2.01. The Agency confirms that it has authorized and designated the Company as the Agency’s agent for acquiring, reconstructing, renovating and equipping the Project Facility.

2.02. The Agency will adopt such proceedings and authorize the execution of such documents as may be necessary or advisable for (A) the designation of the Company as the Agency’s agent, (B) the reconstruction, renovation and equipping of the Project Facility, and (C) the continued leasing and subleasing of the Project Facility to the Company, all as shall be authorized by law and be mutually satisfactory to the Agency and the Company.

2.03. The Agency has or will enter into an agreement to lease the Project Facility to the Company (the “**Agency Lease**”). The Agency Lease shall, or does, contain all provisions required by law and such other provisions as shall be mutually satisfactory to the Agency and the Company.

2.04. The Company may proceed with the reconstruction, renovation and equipping of the Project Facility and advance such funds as may be necessary to accomplish such purposes.

2.05 Subject to Section 4.02 hereof, the Company is appointed the true and lawful agent of the Agency for the reconstruction, renovation and equipping of the Project Facility, and to make, execute, acknowledge and deliver any contracts, orders, receipts, writings and instructions, as the stated agent for the Agency, and in general to do all things which may be requisite or proper for the reconstruction, renovation and equipping of the Project Facility, all with the same powers and the same validity as if the Agency were acting in its own behalf.

Article 3. Undertakings on the Part of the Company. Based upon the statements, representations and undertakings of the Agency and subject to the conditions set forth herein, the Company agrees as follows:

3.01. (a) The Company shall indemnify and hold the Agency harmless from all losses, expenses, claims, damages and liabilities arising out of or based on labor, services, materials and supplies, including equipment, ordered or used in connection with the acquisition, renovation and equipping of the Project Facility (including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of any of the foregoing).

(b) The Company shall not permit to stand, and will, at its own expense, take all steps reasonably necessary to remove, any mechanics' or other liens against the Project Facility for labor or material furnished in connection with the acquisition, renovation and equipping of the Project Facility.

(c) The Company shall indemnify and hold the Agency, its members, officers, employees and agents and anyone for whose acts or omissions the Agency or any one of them may be liable, harmless from all claims and liabilities for loss or damage to property or any injury to or death of any person that may be occasioned subsequent to the date hereof by any cause whatsoever in relation to the Project, including any expenses incurred by the Agency in defending any claims, suits or actions which may arise as a result of the foregoing.

(d) The defense and indemnities provided for in this Article 3 shall survive expiration or termination of this Agreement and shall apply whether or not the claim, liability, cause of action or expense is caused or alleged to be caused, in whole or in part, by the activities, acts, fault or negligence of the Agency, its members, officers, employees and agents, anyone under the direction and control of any of them, or anyone for whose acts or omissions the Agency or any of them may be liable, and whether or not based upon the breach of a statutory duty or obligation or any theory or rule of comparative or apportioned liability, subject only to any specific prohibition relating to the scope of indemnities imposed by statutory law.

(e) The Company shall provide and carry worker's compensation and disability insurance as required by law and comprehensive liability insurance with such coverages (including, without limitation, owner's protective coverage for the benefit of the Agency and contractual coverage covering the indemnities herein provided for), with such limits and with such companies as may be approved by the Agency. Upon the request of the Agency, the Company shall provide certificates of insurance in form satisfactory to the Agency evidencing such insurance.

(f) The Company shall include the Agency as a named insured under all public liability insurance policies obtained by the Company with respect to the Project Facility.

3.02. The Company agrees that as agent of the Agency or otherwise, it

will comply with all the requirements of all federal, state and local law, rules and regulations of whatever kind and howsoever denominated applicable to the Agency and/or the Company with respect to the Project, the acquisition, renovation and equipping of the Project Facility and the financing thereof. Every provision required by law to be inserted herein shall be deemed to be set forth herein as if set forth in full; and upon the request of either party, this Agreement shall be amended to specifically set forth any such provision or provisions.

3.03. The Company agrees that, as agent for the Agency, to the extent that such provisions of law are in fact applicable (without creating an obligation by contract beyond that which is created by statute), it will comply with all the requirements Section 220 of the Labor Law of the State of New York, as amended.

3.04. The Company will take such further action and adopt such further proceedings as may be required to implement its aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3.05. If it should be determined that any State or local sales or compensatory use taxes are payable with respect to the acquisition, purchase or rental of machinery or equipment, materials or supplies in connection with the Project Facility, or are in any manner otherwise payable directly or indirectly in connection with the Project Facility, the Company shall pay the same and defend and indemnify the Agency from and against any liability, expenses and penalties arising out of, directly or indirectly, the imposition of any such taxes.

3.06 The Company hereby ratifies and confirms its obligations to pay an administrative fee to the Agency in the amount of .50% of the Project costs. Such amount is due and payable in full at closing.

3.07 The Company hereby ratifies and confirms its obligations to pay an annual administrative reporting fee of \$500.00 to cover administrative and reporting requirements to comply with New York State reporting regulations on Agency assisted projects.

3.08 Whenever practicable, the Company and/or its agents, employees and contractors agree to hire from the local labor pool during the construction period of the Project Facility.

Article 4. General Provisions.

4.01. This Agreement shall take effect on the date of the execution hereof by the Agency and the Company and, subject to Section 4.04 hereof, shall remain in effect until the Agency Lease becomes effective. It is the intent of the Agency and the Company that this Agreement be superseded in its entirety by the Agency Lease.

4.02. It is understood and agreed by the Agency and the Company that grant of Financial Assistance and the execution of the Agency Lease and related documents are subject to (A) obtaining all necessary governmental approvals; (B) approval by the members of

the Agency; (C) approval by the Company; and (D) the condition that there are no changes in New York State Law, including regulations, which prohibit or limit the Agency from fulfilling its obligations hereunder.

4.03. The Company agrees that it will reimburse the Agency for all reasonable and necessary expenses, including without limitation the fees and expenses of counsel to the Agency and special counsel to the Agency and indemnify the Agency from all losses, claims, damages and liabilities, in each case which the Agency may incur as a consequence of executing this Agreement or performing its obligations hereunder.

4.04. If for any reason the Agency Lease is not executed and delivered by the Company and the Agency on or before eighteen (18) months from the execution hereof, the provisions of this Agreement (other than the provisions of Articles 3.01, 3.02, 3.03, 3.05 and 4.03 above, which shall survive) shall unless extended by agreement of the Agency and the Company, terminate and be of no further force or effect, and following such termination neither party shall have any rights against the other party except:

(a) The Company shall pay the Agency for all expenses which were authorized by the Company and incurred by the Agency in connection with the acquisition, renovation and equipping of the Project Facility;

(b) The Company shall assume and be responsible for any contracts for renovation or purchase of equipment entered into by the Agency at the request of or as agent for the Company in connection with the Project Facility; and

(c) The Company will pay the out-of-pocket expenses of members of the Agency, counsel for the Agency and special Agency counsel incurred in connection with the Project and will pay the fees of counsel for the Agency and special Agency counsel for legal services relating to the Project or the proposed financing thereof.

In Witness Whereof, the parties hereto have entered in this Agreement as of _____, 2010.

**COUNTY OF OSWEGO INDUSTRIAL
DEVELOPMENT AGENCY**

By: _____
L. Michael Treadwell
Chief Executive Officer

SUNOCO, INC.

By: _____

Name: _____

Title: _____