

**PILOT DEVIATION NOTICE RESOLUTION  
NY MOOERS V, LLC PROJECT**

A regular meeting of County of Clinton Industrial Development Agency (the "Agency") was convened in public session in the offices of the Agency located at 137 Margaret Street, Suite 209 in the City of Plattsburgh, Clinton County, New York on August 10, 2020 at 12:00 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:**

Trent Trahan	Chairperson
David Hoover	Vice Chairperson
Michael E. Zurlo	Secretary
Keith Defayette	Treasurer
John VanNatten	Member

Each of the members present participated in the meeting telephonically pursuant to Executive Order No. 202.1, as supplemented, issued by New York State Governor Andrew M. Cuomo, suspending provisions of Article 7 of the Public Officers Law that require public in-person access to public meetings and authorizing board members to participate in said meetings by conference call or similar service.

**ABSENT:**

Kim Murray	Assistant Secretary
Mark Leta	Member

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

Renee McFarlin	Executive Director
Toni Moffat	Executive Assistant
Christopher C. Canada, Esq.	Agency Counsel
George W. Cregg, Jr., Esq.	Agency Counsel

The following resolution was offered by K. Defayette, seconded by J. VanNatten, to wit:

Resolution No. 08-20-02

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO SEND A LETTER TO THE CHIEF EXECUTIVE OFFICERS OF THE AFFECTED TAXING ENTITIES INFORMING THEM OF A PROPOSED DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED NY MOOERS V, LLC PROJECT.

WHEREAS, County of Clinton 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 225 of the 1971 Laws of New York, as amended, constituting Section 895-f 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 manufacturing, warehousing, research, commercial and industrial 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, in September 19, 2019, NY Mooers V, LLC, a New York State limited liability company (the “Company”) submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, which Application requested that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 22 acre parcel of land located on County Route 11 (being a portion of Tax Map No. 58.-1-7.2) in the Town of Mooers, Clinton County, New York (the “Land”), (2) the construction on the Land of up to a 4MW AC community solar photovoltaic facility to include an interconnection line (collectively, the “Facility”) and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the “Equipment”) (the Land, the Facility, and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to constitute a solar farm and other directly and indirectly related activities; (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, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on November 4, 2019 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; 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 (the “Regulations”) adopted pursuant thereto by the Department of Environmental Conservation of the State of New York (collectively with the SEQR Act, “SEQRA”), by resolution adopted by the members of the Agency on November 4, 2019 (the “Preliminary SEQR Resolution), the Agency (A) determined (1) to obtain an environmental assessment form relating to the Project (an “EAF”) from the Company, to review the EAF with counsel to the Agency, and prepare proceedings to allow the Agency to comply with the requirements of SEQRA that apply to the Project, and (2) to investigate the advisability of undertaking a coordinated review with respect to the Project and (B) authorized the Executive Director of the Agency to contact all other “involved agencies” for the purpose of ascertaining whether such “involved agencies” were interested in undertaking a coordinated review of the Project and, if so, designating a “lead agency” with respect to the Project (as such quoted terms are defined in SEQRA) and to report to the Agency at its next meeting on the status of the foregoing; and

WHEREAS, in connection with the Application, the Company made a request to the Agency (the “Pilot Request”) that the Agency deviate from the Agency’s Uniform Tax Exemption Policy (the “Policy”) by providing for payment in lieu of taxes being based on the generating capacity of the Project Facility expressed in a dollar per MWAC calculations; and

WHEREAS, the Policy provides that, for a facility similar to the Project Facility, payments in lieu of taxes will normally be determined as follows: the Company would have the benefit of a 50% abatement in real property taxes on the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law (collectively with the Facility, the "Improvements") in year one of the payment in lieu of tax agreement with a five percent per year increase over the term of the ten year payment in lieu of tax agreement; and

WHEREAS, pursuant to Section 874(4) of the Act and the Policy, prior to taking final action on such request for a deviation from the Policy, the Agency must give the chief executive officers of the County and each city, town, village and school district in which the Project Facility is located (collectively, the "Affected Tax Jurisdictions") no fewer than thirty (30) days prior written notice of the proposed deviation from the Policy and the reasons therefor; and

WHEREAS, pursuant to Section 856(15) of the Act, unless otherwise agreed by the Affected Tax Jurisdictions, payments in lieu of taxes must be allocated among the Affected Tax Jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each Affected Tax Jurisdiction had the Project Facility not been tax exempt due to the status of the Agency;

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

Section 1. Having considered both the Application and the Pilot Request, the Agency hereby authorizes the Executive Director of the Agency to send a written notice to the chief executive officers of each of the Affected Tax Jurisdictions informing them that the Agency is considering a proposed deviation from the Policy with respect to the Project and the reasons therefore (in substantially the form of the draft of said letter attached hereto as Exhibit A), and soliciting any comments that such Affected Tax Jurisdictions may have with respect to said proposed deviation.

Section 2. 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:

Trent Trahan	VOTING	YES
David Hoover	VOTING	YES
Michael E. Zurlo	VOTING	YES
Kim Murray	VOTING	EXCUSED
Keith Defayette	VOTING	YES
Mark Leta	VOTING	EXCUSED
John VanNatten	VOTING	YES

The foregoing Resolution was thereupon declared duly adopted.

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

I, the undersigned (Assistant) Secretary of County of Clinton 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 August 10, 2020 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"), except as modified by Executive Order 202.1, as supplemented, 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, either in-person or appearing telephonically in accordance with Executive Order 202.1, as supplemented, 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 10<sup>th</sup> day of August, 2020.

  
(Assistant) Secretary

(SEAL)

EXHIBIT A  
PROPOSED FORM OF PILOT DEVIATION LETTER

DRAFT FOR DISCUSSION PURPOSES ONLY  
DATED: AUGUST 10, 2020

COUNTY OF CLINTON INDUSTRIAL DEVELOPMENT AGENCY

137 Margaret Street  
Suite 209  
Plattsburgh, New York 12901  
Tel: 518-565-4627  
Fax: 518-565-4616

August \_\_\_\_, 2020

Hon. Mark R. Henry, Chairperson  
Clinton County Legislature  
137 Margaret Street, Suite 208  
Plattsburgh, New York 12901

James C. Knight, Jr., Superintendent  
Northern Adirondack Central School District  
P.O. Box 164, 5572 Route 11  
Ellenburg Depot, New York 12935

Michael E. Zurlo, County Administrator  
Clinton County Government Center  
137 Margaret Street, Suite 208  
Plattsburgh, New York 12901

Paul Gilmore, School Board President  
Northern Adirondack Central School District  
5572 Route 11  
Ellenburg Depot, New York 12935

Jeff Menard, Supervisor  
Town of Mooers  
2508 Route 11  
Mooers, New York 12958

RE: Proposed Deviation from Uniform Tax Exemption Policy by  
County of Clinton Industrial Development Agency  
in connection with its Proposed NY Mooers V, LLC Project

Dear Ladies and Gentlemen:

This letter is delivered to you pursuant to Section 874(4)(c) of the General Municipal Law.

In September, 2019, County of Clinton Industrial Development Agency (the "Agency") received an application (the "Application") from NY Mooers V, LLC (the "Company"), which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to consist of the following: (A) (1) the acquisition of an interest in an approximately 22 acre parcel of land located on County Route 11 (being a portion of Tax Map No. 58.-1-7.2) in the Town of Mooers, Clinton County, New York (the "Land"), (2) the construction on the Land of up to a 4MW AC community solar photovoltaic facility to include an interconnection line (collectively, the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property (collectively, the "Equipment") (the Land, the Facility, and the Equipment hereinafter collectively referred to as the "Project Facility"), all of the foregoing to constitute a solar farm and other directly and indirectly related activities; (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, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

In connection with the Application, the Company has made a request to the Agency enter into a payment in lieu of tax agreement (the “Proposed Pilot Agreement”) which terms would deviate from the Agency’s Uniform Tax Exemption Policy (the “Policy”). Capitalized terms not otherwise defined herein are defined in the Policy.

The Agency has previously approved NY Mooers I, LLC, NY Mooers II, LLC, NY Mooers III, LLC and NY Mooers IV, LLC projects (respectively, the “Mooers I Project”, the “Mooers II Project”, the “Mooers III Project” and the “Mooers IV Project”) similar to the Mooers V Project.

The Proposed Pilot Agreement, which would utilize the same payment in lieu of taxes structure approved for the Mooers I, II, III and IV Projects, would not provide any abatements for any special assessments levied on the Project Facility. The Proposed Pilot Agreement would be for a term of twenty (20) years and provide that the Company will pay an annual amount of \$5,000/MW or \$20,000, which amount will be divided equally among the Affected Tax Jurisdictions, resulting in an annual payment of \$6,666 to each of the three Affected Tax Jurisdictions. Any portion of the \$6,666/MW annual payment in lieu of taxes payment not paid by the Company to each Affected Tax Jurisdiction pursuant to a host community agreement would be payable as a payment in lieu of taxes.

The Policy provides that, for a facility similar to the Project Facility, payments in lieu of taxes will normally be determined as follows: the Company would have the benefit of a 50% abatement in real property taxes on the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law (collectively with the Facility, the “Improvements”) in year one of the payment in lieu of tax agreement with a five percent per year increase over the term of the ten year payment in lieu of tax agreement.

The purpose of this letter is to inform you of such Pilot Request and that the Agency is considering whether to grant the Pilot Request and to approve a Proposed Pilot Agreement conforming to the terms of the Pilot Request. The Agency expects to consider whether to approve the terms of the Proposed Pilot Agreement at its meeting scheduled for \_\_\_\_\_, 2020 at 12:00 p.m., local time at the offices of the Agency located at 137 Margaret Street, Suite 209 in the City of Plattsburgh, Clinton County, New York (the “Meeting”). This letter is forwarded to you for purposes of complying with Section 874 of the General Municipal Law of the State of New York, which requires a thirty (30) day notice prior to the Agency taking final action with respect to the Proposed Pilot Agreement (if said Proposed Pilot Agreement may deviate from the provisions of the Policy).

The Agency considered the following factors in considering the proposed deviation:

1. **The nature of the Project:** Solar farm.
2. **The present use of the property:** Undeveloped.
3. **The economic condition of the area at the time of the request of the Company and the economic multiplying effect that the Project will have on the area:** The Project is located in the Town of Mooers, where agriculture has historically been the primary industry. Like many areas in the community, the affected parcel is currently not being farmed due to changes in commodity prices and a reluctance of the next generation to assume operation of the family

agricultural business. This Project would facilitate productive use of the parcel, advancing the North Country Regional Economic Development Council's Strategic Plan to import dollars by building the region's green energy economy. Since households who sign up for power produced by the array will receive a 10% discount in energy costs, additional dollars will remain in the regional economy, generating resulting multiplier benefits.

**4. The extent to which the Project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary range of such jobs:** No permanent, private sector jobs. Anticipated 39-50 construction jobs with an average of \$40,000 per construction job.

**5. The estimated value of new tax exemptions to be provided:** Sales tax exemption: \$235,000 and mortgage recording tax exemption: \$38,000. Since the Town of Mooers and Northeastern Clinton Central School District did not opt out of Real Property Tax Law Section 487, the tax exemption provided by the Project over the first 15 years would be limited to County of Clinton real property taxes. For Years 16 – 20, the annual exemption would include the Town of Mooers and Northeastern Central School annual property tax.

**6. The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions:** The economic impact of the Proposed Pilot Agreement is positive, since the underlying value of the parcel will likely be largely unaffected and additional revenue will be generated through the Proposed Pilot Agreement. Since the Project is only financially feasible with the Proposed Pilot Agreement in place, the additional benefit of significant special district tax revenue will also accrue to the community's Fire and EMS districts.

**7. The impact of the Proposed Pilot Agreement on existing and proposed businesses and economic development projects in the vicinity:** It is anticipated that the Project will require the continuing services of local landscape contractors, generating an increase in activity in the local economy.

**8. The amount of private sector investment generated or likely to be generated by the Proposed Pilot Agreement:** \$9,880,000

**9. The effect of the Proposed Pilot Agreement on the environment:** The Town of Mooers is the lead agency with respect to the environmental review.

**10. Project Timing:** completion anticipated by June, 2021.

**11. The extent to which the Proposed Pilot Agreement will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services:** None anticipated.

**12. Anticipated tax revenues/Host Community Benefit Agreements:** \$20,000 per year, not including full special district taxes. (Note: If the Company negotiates Host Community Benefit Agreements (HCBA) with each of the taxing jurisdictions, the amount due under the Proposed Pilot Agreement will be reduced by the amount of the HCBA annual payments.)

**13. The extent to which the Proposed Pilot Agreement will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the Project Facility is located:** (a) compatible development in an underdeveloped area of Clinton County; (b) contributes to achievement of the Agency's goal of increasing alternative energy development



in Clinton County; (c) contributes to New York State goal of development of 50% power from alternative sources; and (d) an additional public benefit will be the fees paid to special districts; this represents significant new revenue for these critical public services.

The Agency will consider the Proposed Pilot Agreement (and the proposed deviation from the Policy) at the Meeting. The Agency would welcome any written comments that you might have on this proposed deviation from the Policy. In accordance with Section 874(4)(c) of the General Municipal Law, prior to taking final action at the Meeting, the Agency will review and respond to any written comments received from any affected tax jurisdiction with respect to the proposed deviation. The Agency will also allow any representative of any affected tax jurisdiction present at the Meeting to address the Agency regarding the proposed deviation.

If you have any questions or comments regarding the foregoing, please do not hesitate to contact me at the above telephone number.

Sincerely yours,

Renee McFarlin  
Executive Director