

**SUPPLEMENTAL PILOT DEVIATION NOTICE RESOLUTION  
NY MOOERS IV, 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 in the Town of Plattsburgh, Clinton County, New York on January 14, 2019 at 12:00 o'clock p.m., local time.

The meeting was called to order by the (Vice) Chairman 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           |
| Kim Murray       | Assistant Secretary |
| Keith Defayette  | Treasurer           |
| Mark Leta        | Member              |
| John VanNatten   | Member              |

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

|                             |                    |
|-----------------------------|--------------------|
| Renee McFarlin              | Executive Director |
| George W. Gregg, Jr., Esq.  | Agency Counsel     |
| Christopher C. Canada, Esq. | Agency Counsel     |

The following resolution was offered by M. Zurlo, seconded by J. VanNatten, to wit:

Resolution No. 01-19-03

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO SEND A LETTER TO THE CHIEF EXECUTIVE OFFICERS OF THE AFFECTED TAXING ENTITIES INFORMING THEM OF A PROPOSED SUPPLEMENTAL DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE NY MOOERS IV, 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 July, 2017, NY Mooers IV, LLC, a New York 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 11 acre portion of an approximately 207.7 acre parcel of land located on 297 Boas Road (being a portion of Tax Map No. 58.-1-9) in the Hamlet of Mooers Forks in the Town of Mooers, Clinton County, New York (the “Land”), (2) the construction on the Land of a 2MW 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 August 14, 2017 (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 the authorization contained in the Public Hearing Resolution, the Executive Director of the Agency (the “Executive Director”) (A) caused notice of a public hearing of the Agency (the “Public Hearing”) pursuant to Section 859-a of the Act, to hear all persons interested in the Project and the financial assistance being contemplated by the Agency with respect to the Project, to be mailed on August 24, 2017 to the chief executive officers of the county and of each city, town, village and school district in which the Project Facility is to be located, (B) caused notice of the Public Hearing to be posted on August 24, 2017 at the Mooers Town Hall in the Town of Mooers, Clinton County, New York and on the Agency’s website, (C) caused notice of the Public Hearing to be published on August 31, 2017 in the Press Republican, a newspaper of general circulation available to the residents of Hamlet of Mooers Forks in the Town of Mooers, Clinton County, New York, (D) conducted the Public Hearing on September 20, 2017 at 2:00 o’clock p.m., local time at the Mooers Town Hall Meeting Room, 2508 Route 11 in the Town of Mooers, Clinton County, New York, and (E) prepared a report of the Public Hearing (the “Public Hearing Report”) fairly summarizing the views presented at such Public Hearing and caused copies of said Public Hearing Report to be made available to the members of the Agency; 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 August 14, 2017 (the “SEQR Resolution”), the Agency (A) concurred in the determination that the Town of Mooers (the “Town”) is the “lead agency” with respect to SEQRA and (B) acknowledged receipt of a negative declaration from the Town dated April 17, 2017 (the “Negative Declaration”), in which the Town determined that the Project to be an “unlisted action” and will not have a “significant

environmental impact on the environment” and accordingly, that an environmental impact statement is not required to be prepared with respect to the Project (as such quoted terms are defined in SEQRA); and

WHEREAS, in connection with the Application, the Company made a request to the Agency (the “Initial Request”) that the Agency deviate (the “Initial Proposed Deviation”) 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 with respect to the Initial Request, the Agency was required to give the chief executive officers of the County and each city, town, village and school district in which the Project is located (collectively, the “Affected Tax Jurisdictions”) no fewer than thirty (30) days prior written notice of the Initial Proposed Deviation and the reasons therefore; and

WHEREAS, on August 14, 2017 the members of the Agency adopted a resolution (the “Initial PILOT Deviation Letter”) which authorized the Executive Director to notify the Affected Tax Jurisdictions of the Initial Proposed Deviation in connection with the Project, which Initial Proposed Deviation was outlined in the Initial PILOT Deviation Letter; and

WHEREAS, by the Initial PILOT Deviation Letter, the Executive Director notified the chief executive officers of the Affected Tax Jurisdictions of the Initial Proposed Deviation; and

WHEREAS, by resolution adopted by the members of the Agency on October 16, 2017 (the “Initial PILOT Deviation Approval Resolution”), the members of the Agency determined to deviate from the Policy with respect to the Project; and

WHEREAS, by resolution adopted by the members of the Agency on October 16, 2017 (the “Approving Resolution”), the Agency determined to grant the Financial Assistance and to enter into, among other things, a payment in lieu of tax agreement (the “Proposed PILOT 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

WHEREAS, in December, 2018, the Company presented a supplemental application (the “Supplemental Application”) to the Agency, a copy of which is on file at the office of the Agency, pursuant to which, as a result of the replacement of the net energy metering program with the Value of Distributed Energy Resources program by the New York State Public Service Commission and the expected decrease in revenue to the Company as a result thereof, the Company requested a reduction in the dollar amount of payments to be made by the Company to the Affected Tax Jurisdictions (as defined in the Proposed PILOT Agreement) under the Proposed PILOT Agreement (the “Proposed Modification”); and

WHEREAS, in connection with the Supplemental Application, the Company made a request to the Agency (the “Supplemental Request”) that the Agency deviate (the “Supplemental Proposed Deviation”) from the Policy to effect the terms of the Proposed Modification; and

WHEREAS, pursuant to Section 874(4) of the Act and the Policy, prior to taking final action on such Supplemental Request for a deviation from the Policy, the Agency must give the Affected Tax Jurisdictions no fewer than thirty (30) days prior written notice of the proposed deviation from the Policy and the reasons therefore; 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 the Supplemental Application, 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 the Supplemental Proposed Deviation 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 Supplemental 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 | YES |
| Keith Defayette  | VOTING | YES |
| Mark Leta        | VOTING | YES |
| John VanNatten   | VOTING | YES |

The foregoing Resolution was thereupon declared duly adopted.

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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 January 14, 2019 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 14<sup>th</sup> day of January, 2019.

  
\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

EXHIBIT A

PROPOSED FORM OF SUPPLEMENTAL PILOT DEVIATION LETTER

See attached.

COUNTY OF CLINTON INDUSTRIAL DEVELOPMENT AGENCY

137 Margaret Street  
Suite 209  
Plattsburgh, New York 12901  
TEL: (518) 565-4600  
FAX: (518) 565-4616

January \_\_, 2019

Hon. Harry J. McManus, Chairperson  
Clinton County Legislature  
Clinton County Government Center  
137 Margaret Street, Suite 208  
Plattsburgh, New York 12901

Robb Garrand, Superintendent  
Northeastern Clinton Central School District  
103 Route 276  
Champlain, New York 12919

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

Stephen Southwick, School Board President  
Northeastern Clinton Central School District  
103 Route 276  
Champlain, New York 12919

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

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

Dear Ladies and Gentlemen:

This letter is delivered to you pursuant to Section 874(4)(c) of the General Municipal Law of the State of New York, as amended (the "General Municipal Law").

In July, 2017, County of Clinton Industrial Development Agency (the "Agency") received an application (the "Application") from NY Mooers IV, 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 11 acre portion of an approximately 207.7 acre parcel of land located on 297 Boas Road (being a portion of Tax Map No. 58.-1-9) in the Hamlet of Mooers Forks in the Town of Mooers, Clinton County, New York (the "Land"), (2) the construction on the Land of a 2MW 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.

The Agency also received applications from NY Mooers I, LLC, NY Mooers II, LLC and NY Mooers III, LLC, which applications requested the Agency to undertake projects (respectively, the “Mooers I Project”, the “Mooers II Project” and the “Mooers III Project”) similar to the Mooers IV Project.

In connection with the Application, the Company made a request to the Agency (the “Initial PILOT Request”) to enter into a payment in lieu of tax agreement (the “Proposed PILOT Agreement”) which terms would deviate (the “Initial Proposed Deviation”) from the Agency’s Uniform Tax Exemption Policy (the “Policy”). Under the Initial PILOT Request, which would have utilized the same payment in lieu of taxes structure approved for the Mooers I, II and III Projects, (i) the Proposed PILOT Agreement would not provide any abatements for any special assessments levied on the Project Facility, (ii) the Company would pay an annual amount of \$9,600/MW or \$19,200 and (iii) any portion of the \$6,400/MW annual payment in lieu of taxes 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.

Pursuant to Section 874(4) of the General Municipal Law of the State of New York, as amended (the “General Municipal Law”), prior to taking final action on a 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”) written notice of a proposed deviation from the Policy and the reasons therefor no fewer than thirty (30) days prior to the meeting of the Agency at which the members of the Agency shall consider whether to approve such proposed deviation.

On August 14, 2017 the members of the Agency adopted a resolution which authorized the Executive Director to notify the Affected Tax Jurisdictions of the Initial Proposed Deviation in connection with the Project, which Initial Proposed Deviation was outlined in the letter dated August 24, 2017 (the “Initial PILOT Deviation Letter”). Thereafter, the Executive Director notified the chief executive officers of the Affected Tax Jurisdictions of the Initial Proposed Deviation pursuant to the Initial PILOT Deviation Letter. By resolution adopted by the members of the Agency on October 16, 2017 (the “Initial PILOT Deviation Approval Resolution”), the members of the Agency determined to deviate from the Policy with respect to the Project. Subsequently, the Agency and the Company entered into the Initial PILOT Agreement.

In December, 2018, the Company presented a supplemental application (the “Supplemental Application”) to the Agency, a copy of which is on file at the office of the Agency, pursuant to which, as a result of the replacement of the net energy metering program with the Value of Distributed Energy Resources program by the New York State Public Service Commission and the expected decrease in revenue to the Company as a result thereof, the Company requested a reduction in the dollar amount of



payments to be made by the Company to the Affected Tax Jurisdictions under the Proposed PILOT Agreement (the "Proposed Modification").

In connection with the Supplemental Application, the Company made a request to the Agency (the "Supplemental Request") that the Agency deviate (the "Supplemental Proposed Deviation") from the Policy to effect the terms of the Proposed Modification. Under the Supplemental PILOT Request, (i) the Proposed PILOT Agreement would not provide any abatements for any special assessments levied on the Project Facility, (ii) the Company will pay an annual amount of \$12,000 in lieu of taxes and (iii) any portion of the \$12,000 annual payment in lieu of taxes 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 purpose of this letter is to inform you of such Supplemental PILOT Request and that the Agency is considering whether to grant the Supplemental PILOT Request and to approve the Proposed PILOT Agreement conforming to the terms of the Supplemental PILOT Request. The Agency expects to consider whether to approve the terms of the Proposed PILOT Agreement at its meeting scheduled for March \_\_, 2019 at 12:00 p.m., local time at the offices of the Agency located at 137 Margaret Street, Suite 209 in the Town 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, 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:** Solar farm.
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. The Project would continue to facilitate productive use of the Land, 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.
5. **The estimated value of new tax exemptions to be provided:** Sales tax exemption: \$78,000 and mortgage recording tax exemption: \$14,877. 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 Clinton Central School annual property tax. The projected total property tax exemption, assuming a \$4 million assessment based upon total construction cost, would be \$348,400. It is anticipated that the actual assessed value will be lower, lowering the actual property tax exemption amount.

**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 Land 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 emergency medical services 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:** \$3,016,589

**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 January 31, 2019.

**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:** \$12,000 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; (d) Facility would generate the equivalent electrical consumption of 348 homes; and (e) 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