

**PILOT DEVIATION NOTICE RESOLUTION  
ERS ROUSES POINT 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 208 in the City of Plattsburgh, Clinton County, New York on October 7, 2019 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
Mark Leta	Member
John VanNatten	Member

**ABSENT:**

Kim Murray	Assistant Secretary
------------	---------------------

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

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

The following resolution was offered by J. VanNatten, seconded by D. Hoover, to wit:

Resolution No. 10-19-03

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO SEND A LETTER TO THE CHIEF EXECUTIVE OFFICERS OF THE AFFECTED TAXING ENTITIES INFORMING THEM OF A PROPOSED DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED ERS ROUSES POINT 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, ERS Rouses Point LLC, a New York State limited liability company (the “Company”), has presented an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, requesting 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 five (5) parcels of land containing approximately 80 acres located at 64 Maple Street and Academy Street (Tax Map Numbers 20.14-1-3.3, 20.14-1-3.1, 20.14-1-5, 20.14-1-27 and 20.14.1-28) in the Village of Rouses Point, Town of Champlain, Clinton County, New York (collectively, the “Land”), together with three (3) buildings located thereon containing in the aggregate approximately 233,876 square feet of space (collectively, the “Facility”), (2) the renovation and reconstruction of the Facility, (3) the further construction on the Land of a rail spur and the making of other infrastructure improvements (collectively, the “Improvements”) and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property, including without limitation, tenant improvement and finish (collectively, the “Equipment”) (the Land, the Facility, the Improvements and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to constitute various manufacturing, warehouse, industrial and office space to be owned by the Company and leased to various tenants, 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 October 7, 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 October 7, 2019 (the “Preliminary SEQR Resolution”), the Agency (A) determined (1) to obtain an environmental assessment form relating to the Project from the Company, to review such environmental assessment form 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) that, the Agency wished 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 has made a request to the Agency (the “Pilot Request”) to deviate from the its uniform tax exemption policy (the “Policy”) with respect to the payments to be made under a payment in lieu of tax agreement by and between the Agency and the Company (the “Proposed Pilot Agreement”); and

WHEREAS, pursuant to Section 874(4) of the Act and the Policy, prior to taking final action on such Pilot 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 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 therefore; 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 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	<u>YES</u>
David Hoover	VOTING	<u>YES</u>
Michael E. Zurlo	VOTING	<u>YES</u>
Keith Defayette	VOTING	<u>YES</u>
Kim Murray	EXCUSED	<u>EXCUSED</u>
Mark Leta	VOTING	<u>YES</u>
John VanNatten	VOTING	<u>YES</u>

The foregoing Resolution was thereupon declared duly adopted.

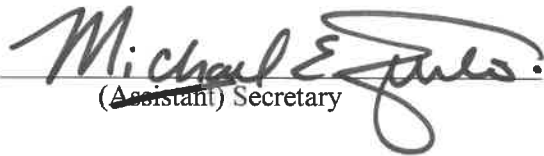
STATE OF NEW YORK            )  
  ) SS.:  
COUNTY OF CLINTON         )

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 October 7, 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 7<sup>th</sup> day of October, 2019.

  
(Assistant) Secretary

(SEAL)

EXHIBIT A  
PROPOSED FORM OF PILOT DEVIATION LETTER

COUNTY OF CLINTON INDUSTRIAL DEVELOPMENT AGENCY

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

October \_\_, 2019

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

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

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

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

Thomas D. Batha, Mayor  
Village of Rouses Point  
139 Lake Street, PO Box 185  
Rouses Point, New York 12979

Larry Barcomb, Supervisor  
Town of Champlain  
729 Route 9, PO Box 3144  
Champlain, New York 12919

RE: Proposed Deviation from Uniform Tax Exemption Policy by  
County of Clinton Industrial Development Agency  
in connection with its Proposed ERS Rouses Point LLC Project

Dear Ladies and Gentlemen:

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

In October, 2019, County of Clinton Industrial Development Agency (the "Agency") received an application (the "Application") from ERS Rouses Point 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 five (5) parcels of land containing approximately 80 acres located at 64 Maple Street and Academy Street (Tax Map Numbers 20.14-1-3.3, 20.14-1-3.1, 20.14-1-5, 20.14-1-27 and 20.14.1-28) in the Village of Rouses Point, Town of Champlain, Clinton County, New York (collectively, the "Land"), together with three (3) buildings located thereon containing in the aggregate approximately 233,876 square feet of space (collectively, the "Facility"), (2) the renovation and reconstruction of the Facility, (3) the further construction on the Land of a rail spur and the making of other infrastructure improvements (collectively, the "Improvements") and (4) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other

tangible personal property, including without limitation, tenant improvement and finish (collectively, the “Equipment”) (the Land, the Facility, the Improvements and the Equipment hereinafter collectively referred to as the “Project Facility”), all of the foregoing to constitute various manufacturing, warehouse, industrial and office space to be owned by the Company and leased to various tenants, 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 Proposed Pilot Agreement would not provide any abatements for any special assessments levied on the Project Facility. The Proposed Pilot Agreement would be for a term of 15 years, with the Company making the payments in each year as a Pilot Payment to each Affected Tax Jurisdiction as follows:

<b>Tax Year</b>	<b>Percentage of Exemption</b>
1-5	100%
6-10	50%
11	40%
12	30%
13	20%
14	10%
15	0%

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 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 December 9, 2019 at 12:00 p.m., local time at the offices of the Agency located in 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:** Manufacturing, warehouse, industrial and office space to be leased to various tenants.

2. **The present use of the property:** Vacant buildings.
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:** At the time of the filing of the Application, the economic condition of the area in which the Project Facility is to be located is generally average. The Project is expected to create new jobs in the area through the development of an industrial park and the addition of a rail spur.
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:** In the Application, the Company believes the Project will create approximately 100 new jobs within the next five years.
5. **The estimated value of new tax exemptions to be provided:** Real property tax exemption benefit of approximately \$\_\_\_\_\_ and sales tax exemption benefit of approximately \$168,000.
6. **The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions:** The economic impact of the Proposed Pilot Agreement on affected tax jurisdictions is positive, as development of the Project Facility is expected to result in local construction jobs, the creation of permanent jobs, payments to taxing jurisdictions and multiplier impacts in the regional economy.
7. **The impact of the Proposed Pilot Agreement on existing and proposed businesses and economic development projects in the vicinity:** The impact of the Project is a positive one on the community, as it creates additional development in the area. The Project will serve to attract additional development projects. The local restaurants and businesses will likewise benefit from the undertaking of the Project.
8. **The amount of private sector investment generated or likely to be generated by the Proposed Pilot Agreement:** \$3,500,000.
9. **The effect of the Proposed Pilot Agreement on the environment:** The Agency has not yet made a determination 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") regarding the potential environmental impact of the Project.
10. **Project Timing:** Anticipated to be completed by January 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:** The Proposed Pilot Agreement will not require the provision of additional services.
12. **Anticipated tax revenues:** The anticipated tax revenues include Pilot Payments that are expected to equal the anticipated taxes paid on the involved properties based on the revaluation of the current land and improvements by the local tax assessors, and that will continue to increase over time.



**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:** The Project will benefit the Village of Rouses Point as it improves an underutilized site.

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