

Authorizing The Chair Of The Legislature To Execute A Development Agreement With AC Power Development Company LLC, For Development Of A Solar Array At The Hertel Landfill Site, A Foreclosure Eligible Parcel – Department Of Planning

Referred to: The Economic Development, Planning, Education, Employment, Arts and Agriculture Committee (Chairman Cahill and Legislators Corcoran, Criswell, Hewitt, Litts, Maloney and Sperry), The Energy, Environment and Sustainability Committee (Chairwoman Greene and Legislators Hansut, Levine, Maloney, and Stewart), and The Ways and Means Committee (Chairman Gavaris and Legislators Cahill, Roberts, Ronk, and Walter)

Chairman of the Economic Development, Planning, Education, Employment, Arts and Agriculture Committee, Brian B. Cahill, and Deputy Chair Herbert Litts, III offer the following:

WHEREAS, this resolution has been submitted at the request of the County Executive on behalf of the Department of the Planning; and,

WHEREAS, according to the USEPA, a brownfield is a property for which “redevelopment or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant”; and

WHEREAS, the site known as the Hertel Landfill is a 73.9 acre foreclosure-eligible “brownfield” parcel (SBL 95.3-4-37) in the Town of Plattekill, Ulster County for which a portion of the site is a closed and capped landfill listed on the EPA Superfund Program’s National Priorities List (EPA ID NYD0980780779) and the EPA continues to have agreements with the responsible parties (RPs) and continues to work with those entities on long-term monitoring and maintenance; and

WHEREAS, back taxes on the Hertel Landfill site exceed \$206,538.67 and the County has been unsuccessful in contacting any owners, successors or other interested parties; and

WHEREAS, Ulster County has not foreclosed on the parcel due to its status as an EPA Superfund site as well as liens against the property filed by the EPA; and

WHEREAS, the Ulster County Legislature has addressed the importance to actively move foreclosure-eligible brownfield sites to productive reuse through the establishment of Capital Project No. 629 that created a Brownfields Redevelopment initiative; and

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WHEREAS, solar development on the site is a productive reuse with significant community and environmental benefits in line with the Ulster County Legislature's Resolution 301 of September 2019 Establishing a Policy Regarding Ulster County's Use of Renewable Energy and the proposed project would enable the County to be an "off-taker" of power increasing our usage of locally generated renewable electricity; and

WHEREAS, in recognition compatibility of use of the site for solar development and its alignment with County policies, the Planning Department issued SOQ-UC-060 Solar Development of the Hertel Landfill whereby the County sought Statements of Qualifications from solar developers to develop and build a solar array on the Hertel Landfill fully disclosing its status as an EPA Superfund site, that would require close coordination with EPA to gain needed assurances from EPA, that Ulster County would be necessary prior to finalizing a foreclosure proceeding allowing Ulster County to obtain title to the property; and

WHEREAS, Ulster County received seven responses to SOQ-UC-060 and under established procurement requirements, and after consideration of all factors including qualifications, and experience installing solar projects on Superfund sites, and the cost/benefit proposal which included making the County whole for back taxes on the property, has selected AC POWER as the vendor for this project; and

WHEREAS, the County has prepared a Development Agreement that provides for AC-Power to begin the needed exploratory work and seek the needed assurances from EPA to allow the County to seek title to the property and AC Power to confirm the suitability of the site for solar development; and

WHEREAS, the sale of a property acquired by Ulster County for tax purposes is included in the adopted Ulster County SEQR Type II list in section 4.1.5 as a Type II action and does not require additional review by the County under SEQR; now, therefore be it

RESOLVED, that the Chair of the Ulster County Legislature is hereby authorized to execute the Development Agreement with AC Power for the Hertel Landfill site as on file with the Clerk of the Legislature and any amendments thereto as recommended by the County Attorney along with any forms, certificates, assurances, applications or material necessary to effectuate the foregoing; and, be it further

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RESOLVED, the intent of the Ulster County Legislature is to foreclose and take title to the Hertel Landfill site upon being satisfied as to the assurances provided to it concerning the advisability of obtaining title to the property including all necessary agreements and assurances from the US EPA regarding the site and to sell the site to AC Power in accordance with the Development Agreement; and be further

RESOLVED, that AC Power is authorized to submit any applications to Central Hudson, NYSERDA the Public Service Commission, or other entries as appropriate in accordance with the conditions of the Development Agreement to obtain review, studies or approvals necessary to design the project,

and move its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES: 23 NOES: 0

Passed Committee: Economic Development, Planning, Education, Employment, Arts and Agriculture on January 31, 2023

Passed Committee: Energy, Environment and Sustainability on February 2, 2023

Postponed in Committee: Ways and Means for one week on February 7, 2023

Passed Committee: Ways and Means on February 14, 2023

FINANCIAL IMPACT:

TBD

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STATE OF NEW YORK

ss:

COUNTY OF ULSTER

I, the undersigned Clerk of the Legislature of the County of Ulster, hereby certify that the foregoing resolution is the original resolution adopted by the Ulster County Legislature on the 14th Day of February in the year Two Thousand Twenty-Three, and said resolution shall remain on file in the office of said clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of the County of Ulster this 17th Day of February in the year Two Thousand Twenty-Three.

[s] Victoria A. Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

Submitted to the County Executive this
17th Day of February 2023.

Approved by the County Executive this
23rd Day of February 2023.

[s] Victoria A Fabella
Victoria A. Fabella, Clerk
Ulster County Legislature

[s] Jen Metzger
Jen Metzger, County Executive