

Authorizing The Chair Of The Legislature To Execute A Memorandum Of Agreement Between The United States Environmental Protection Agency And Ulster County, New York Regarding 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, Criswell, Roberts, and Ronk)

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, 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 Environmental Protection Agency (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 \$200,000 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, 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; and

WHEREAS, pursuant to Ulster County Legislature Resolution No. 38 of 2023, the County executed a development agreement with AC Power, the awarded vendor; and

Resolution No. 561 October 17, 2023

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WHEREAS, in order to facilitate the potential redevelopment of the Property for the proposed solar proposed project an existing EPA Lien under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) must be removed; and

WHEREAS, EPA in support of the redevelopment and reuse of this former Superfund site and is willing to release the CERCLA Lien of \$4,566,859.79 and waive its right of redemption and deliver to Ulster County the release the CERCLA Lien, within 30 days of the execution of a Memorandum of Agreement that provides payment to the EPA of sixty-five percent (65%) of the proceeds from the sale of the property; and

WHEREAS, Ulster County will complete acquisition of the property under the foreclosure process given an available buyer in AC Power, the release of the Lien by EPA, and the benefits or reuse of the former superfund site for solar power generation; 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; now, therefore be it

RESOLVED, that the Chair of the Ulster County Legislature is hereby authorized to execute a Memorandum of Agreement (MOA) by and between the EPA and Ulster County as filed with the Clerk of the Legislature or as amended by the County Attorney and approved by Legislative Counsel; and, be it further

RESOLVED, that within sixty days of the closing transferring the property to AC Power and payment of the purchase price, Ulster County will remit to the EPA 65% of the sale proceeds from the property as provided for in the MOA, and be it further

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RESOLVED, that the 2023 Ulster County Budget be amended as follows:

	<u>INCREASE</u>	<u>AMOUNT</u>
AA.1310.1076-4600.4660 (App. #)	Misc. Contractual Exp Other	\$ 136,200.00
AA.1310.1076-3010.1051 (Rev. #)	Gain on Sale- Tax Acquired Prop.,	\$ 136,200.00

and moves its adoption.

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

Passed Committee: Economic Development, Planning, Education, Employment, Arts and Agriculture on _____.

Passed Committee: Energy, Environment and Sustainability on _____.

Passed Committee: Ways and Means on _____.

FINANCIAL IMPACT:

\$136,200.00 – ADDITIONAL 2023 APPROPRIATION DOLLARS

\$136,200.00 – ADDITIONAL 2023 REVENUE DOLLARS