

1 **2021 Fall Seminar**
2 **Standing Committee on Agriculture & Rural Affairs**
3 **Resolution #1**

4 **Resolution in Support of New York State Sharing Agricultural Mitigation**
5 **Fees with Counties to Support County Agriculture and Farmland Protection**
6 **Initiatives**

7 **WHEREAS**, the New York State Energy, Research and Development Authority
8 (NYSERDA) and the New York State Department of Agriculture and Markets (AGM) have
9 entered into a Memorandum of Understanding (MOU) regarding the assessment and
10 collection of an Agricultural Mitigation Fund payment for certain proposed solar projects
11 over 30 acres located in an agricultural district; and

12 **WHEREAS**, NYSERDA and AGM have agreed to work with solar project developers to
13 obtain mutually acceptable project modifications to protect agriculture and associated
14 resources from its adverse impacts; and

15 **WHEREAS**, NYSERDA's 2020 Request for Proposals (RFP)¹ and future RFPs will
16 include language advising all respondents to such RFPs of the new Agriculture
17 Mitigation Fund Payment requirements and will include the information necessary for
18 respondents to calculate any mitigation costs in the preparation of their bids; and

19 **WHEREAS**, the agreements will require payment to an Agriculture Mitigation Fund in
20 an amount calculated at commercial operation date (COD), at which time the final
21 actual agricultural conversion of mineral soil groups one through four (MSG 1-4)² can be
22 accurately calculated, and the final offsetting value of an implemented co-agricultural
23 measures, if any, can be considered; and

24 **WHEREAS**, solar bid facilities in agricultural districts awarded by NYSERDA may be
25 responsible for making an agricultural mitigation payment to a designated fund
26 administered by NYSERDA based on the extent to which the solar project footprint,
27 defined as the facility area, overlaps with land classified as MSG 1-4; and

28 **WHEREAS**, NYSERDA has agreed to work with AGM to administer the funds received
29 through mitigation payments; however, the MOU provides no direction or guidance on
30 how these funds should be spent to mitigate the impacts of the proposed solar projects
31 on farmland and in agricultural districts; and

32 **WHEREAS**, New York State Association of Counties (NYSAC) supports the need for
33 effective agricultural mitigation at the county level to balance the often-competing goals
34 of expanding renewable solar project development capacity and the protection of
35 critically important agriculture and farmlands across New York State; and

¹ <https://agriculture.ny.gov/land-and-water/tax-credits-and-agricultural-assessments#agricultural-assessment-information>

1 **WHEREAS**, NYSAC supports the protection of important farmland and soils,
2 agriculture district designations, and the implementation of agriculture and farmland
3 protection plans by counties across New York State.

4 **NOW, THEREFORE, BE IT RESOLVED**, that NYSAC calls upon NYSERDA to
5 share up to 50 percent of the Agriculture Mitigation Fund payments received with the
6 counties in which solar projects are being proposed and where impacts to existing
7 agricultural districts are occurring; and

8 **BE IT FURTHER RESOLVED**, that Agriculture Mitigation Fund payments received by
9 NYSERDA and made available to impacted counties shall be used by such county for the
10 purposes of implementing farmland protection plans, measures, and projects consistent
11 with their approved Agriculture and Farmland Protection Plan (AFPB) with a preference
12 for planning, zoning, and farmland protection efforts in the same municipality/area as
13 where such solar projects are being developed; and

14 **BE IT FURTHER RESOLVED**, that any Agricultural Mitigation Fund payments
15 collected by NYSERDA for projects pursuant to either the Article 10 or the 94c review
16 process also be shared with the county in which such project is being developed; and

17 **BE IT FURTHER RESOLVED**, that copies of this resolution be sent to the counties of
18 New York State encouraging member counties to enact similar resolutions; and

19 **BE IT FURTHER RESOLVED**, that NYSAC shall forward copies of this resolution to
20 Governor Kathy Hochul, the New York State Legislature, the President/CEO of
21 NYSERDA, the Commissioner of Agriculture and Markets, and all others deemed
22 necessary and proper.