

CLOSING MEMORANDUM

COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY

(MIRANT BOWLINE, LLC PROJECT)

DATE AND TIME OF CLOSING: June 20, 2006
10:00 a.m.

PLACE OF CLOSING:

I. Action Taken Prior to Closing

At the request of Mirant Bowline, LLC (the “**Company**”), the County of Rockland Industrial Development Agency (the “**Agency**”), a public benefit corporation organized under the laws of the State of New York, has undertaken a project (the “**Project**”) consisting of (a) the acquisition of a leasehold interest in approximately 249± acres of improved real property located in the Town of Haverstraw, County of Rockland, State of New York (the “**Land**”), together with a 1,200 megawatt (“**MW**”) electric generating facility located on the Land and commonly referred to as the Bowline Electric Generating Facility (the “**Facility**”) (the Land and the Facility are collectively referred to as the “**Project Facility**”); (b) the sublease of the Project Facility to the Company and HVG (as defined herein) to maintain the operation of the Project Facility in Rockland County, to preserve the competitive position of the Company in the merchant energy industry as that industry faces the financial challenges created by deregulation, to induce continued capital investment by the Company in the Project Facility; and to prevent the closing or distressed sale of the Project Facility so as to preserve the permanent private sector jobs currently existing at the Project Facility, and (c) the grant of “financial assistance” (within the meaning of Section 854(14) of the General Municipal Law) with respect to the foregoing in the form of exemption from real property taxes (the “**Financial Assistance**”).

Hudson Valley Gas Corporation (“**HVG**”) owns a portion of the Project Facility associated with a gas pipeline and the Company owns the balance of the Project Facility.

The Agency will acquire a leasehold interest in the Project Facility from the Company and HVG pursuant to a Company Lease Agreement dated as of June 30, 2006 (the “**Company Lease**”), between the Company and HVG, as landlord and the Agency, as tenant. The Agency will lease the Project Facility back to the Company and HVG, pursuant to a Lease Agreement dated as of June 30, 2006 (the “**Lease Agreement**”) between the Agency, as sublessor and the Company and HVG, as sublessee.

The Town of Haverstraw (the “**Town**”), Village of Haverstraw (“**Haverstraw Village**”), Village of West Haverstraw (“**West Haverstraw Village**”), Haverstraw-Stony Point Central

School District (the “**School District**”), County of Rockland (“**County**”) (the Town, Haverstraw Village, West Haverstraw Village, School District and County are collectively referred to as the “**Tax Jurisdictions**”), Agency, and Company will enter into a payment in-lieu of taxes agreement (“**PILOT Agreement**”) with respect to the Project Facility.

Capitalized terms used herein and not otherwise defined shall have the meaning given to such terms in Article I of the Lease Agreement.

Among the actions taken by the Agency and the Tax Jurisdictions with respect to the Project prior to Closing were the following:

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|-------------------|---|
| December 12, 2005 | The Company submitted an application for financial assistance for the Project to the Agency. |
| December 16, 2005 | Notice of the Public Hearing was published in <u>The Journal News</u> pursuant to Section 859-a of the Act. |
| December __, 2005 | Notice of the Public Hearing was mailed to the chief executive officers of the affected tax jurisdictions pursuant to Section 859-a of the Act. |
| January 20, 2006 | The Agency conducted the Public Hearing pursuant to Section 859-a of the Act. |
| February 13, 2006 | The Agency determined that undertaking the Project and granting the Financial Assistance did not constitute an “action” for purposes of SEQRA. |
| February 13, 2006 | The Agency adopted a resolution (the “ Inducement Resolution ”) in which it determined that the undertaking of the Project and the provision of financial assistance by the Agency in the form of a PILOT Agreement is authorized by the Act and will be in furtherance of the policy of the State of New York as set forth therein. |
| May 16, 2006 | The Agency adopted a resolution (the “ Agency Authorizing Resolution ”) in which it approved the PILOT Agreement, agreed to provide the Financial Assistance, and authorized the execution and delivery of the PILOT Agreement by the Chairperson of the Board of the Agency. |
| June 5, 2006 | The Town adopted a resolution (the “ Town Authorizing Resolution ”) in which it approved the PILOT Agreement, consented to exemption of the Project Facility from General <i>Ad Valorem</i> Taxes levied or imposed by the Town for the term of the PILOT Agreement, and authorized the execution and delivery of |

the PILOT Agreement and documents relating to the Project by the Supervisor of the Town.

June 5, 2006

Haverstraw Village adopted a resolution (the “**Haverstraw Village Authorizing Resolution**”) in which it approved the PILOT Agreement, consented to exemption of the Project Facility from General *Ad Valorem* Taxes levied or imposed by Haverstraw Village for the term of the PILOT Agreement, and authorized the execution and delivery of the PILOT Agreement and documents relating to the Project by the Mayor of Haverstraw Village.

June 5, 2006

West Haverstraw Village adopted a resolution (the “**West Haverstraw Village Authorizing Resolution**”) in which it approved the PILOT Agreement, consented to exemption of the Project Facility from General *Ad Valorem* Taxes levied or imposed by West Haverstraw Village for the term of the PILOT Agreement, and authorized the execution and delivery of the PILOT Agreement and documents relating to the Project by the Mayor of West Haverstraw Village.

June 5, 2006

The School District adopted a resolution (the “**School District Authorizing Resolution**”) in which it approved the PILOT Agreement, consented to exemption of the Project Facility from General *Ad Valorem* Taxes levied or imposed by the School District for the term of the PILOT Agreement, and authorized the execution and delivery of the PILOT Agreement and documents relating to the Project by the Superintendent of the School District.

June 6, 2006

The County adopted a resolution (the “**County Authorizing Resolution**”) in which it approved the PILOT Agreement, consented to exemption of the Project Facility from General *Ad Valorem* Taxes levied or imposed by the County for the term of the PILOT Agreement, and authorized the execution and delivery of the PILOT Agreement and documents relating to the Project by the County Executive of the County.

II. Action To Be Taken At Closing

The following documents, or copies thereof, are to be delivered (except as indicated) to each of the parties and their respective counsel, as follows:

A. Basic Instruments

1. Table of Definitions
2. Company Lease Agreement

3. Memorandum of Company Lease Agreement with TP-584 and RP 5217
4. Lease Agreement
5. Memorandum of Lease Agreement with Form TP-584 and RP 5217
6. Certificates of casualty, liability, workers' compensation and other required insurance
7. Indemnity Agreement Regarding Hazardous Materials
8. ADA Indemnification Agreement
9. Environmental Certificate and Environmental Statement
10. Guarantee Agreement
11. PILOT Agreement
12. PILOT Obligation Agreement
13. PILOT Mortgage
14. Form 412A
15. Undertaking
16. Closing Receipt

B. Items To Be Delivered By The Agency

1. General Certificate of the Agency relating to incumbency and signatures of officers, execution and delivery of documents to which it is a party, no litigation and continued existence, with the following items included as exhibits:

Exhibit "A" - Real Property Description;

Exhibit "B" - By-laws;

Exhibit "C" - Notice of Public Hearing with evidence of publication pursuant to Section 859-a of the Act;

Exhibit "D" - Inducement Resolution and Agency Authorizing Resolution.

C. Items To Be Delivered By The Company And HVG

1. General Certificate of the Company and General Certificate of HVG relating to capacity and signatures of officers, execution and delivery of the documents to

which it is a party, no litigation and approval, with the following items included as exhibits:

Exhibit “A” - Certificate of Formation or Incorporation;

Exhibit “B” - Operating Agreement or By-laws;

Exhibit “C” - Certificate of Legal Existence (Delaware) or Certificate of Good Standing;

Exhibit “D” - Evidence of Authority to Do Business (New York);

Exhibit “E” - Certificate of Incumbency;

Exhibit “F” - Consent of Member or Shareholders.

D. Items To Be Delivered By The Tax Jurisdictions

1. Certificate of the Town relating to capacity and signatures of officers, execution and delivery of the documents to which it is a party, no litigation and approval, with the following items included as exhibits:

Exhibit “A” - Town Authorizing Resolution.

2. Certificate of Haverstraw Village relating to capacity and signatures of officers, execution and delivery of the documents to which it is a party, no litigation and approval, with the following items included as exhibits:

Exhibit “A” - Haverstraw Village Authorizing Resolution.

3. Certificate of West Haverstraw Village relating to capacity and signatures of officers, execution and delivery of the documents to which it is a party, no litigation and approval, with the following items included as exhibits:

Exhibit “A” - West Haverstraw Village Authorizing Resolution.

4. Certificate of the School District relating to capacity and signatures of officers, execution and delivery of the documents to which it is a party, no litigation and approval, with the following items included as exhibits:

Exhibit “A” - School District Authorizing Resolution.

5. Certificate of the County relating to capacity and signatures of officers, execution and delivery of the documents to which it is a party, no litigation and approval, with the following items included as exhibits:

Exhibit "A" - County Authorizing Resolution.

E. Opinions of Counsel

1. Opinion of Montalbano, Condon & Frank, P.C., counsel to the Agency, addressed to the Company and the Agency.
2. Opinion of Hiscock & Barclay, LLP, counsel to the Company and HVG, addressed to the Agency and the Company.
3. Opinion of Whiteman, Osterman & Hanna, LLP, counsel to the Town, addressed to the Agency.
4. Opinion of J. Nelson Hood, Esq., Village Attorney, counsel to Haverstraw Village, addressed to the Agency.
5. Opinion of John S. Edwards, Esq., Village Attorney, counsel to West Haverstraw Village, addressed to the Agency.
6. Opinion of Whiteman, Osterman & Hanna, LLP, counsel to the School District, addressed to the Agency.
7. Opinion of the County Attorney, counsel to the County, addressed to the Agency.

III. Action To Be Required Concurrently With Or After Closing

Memorandum of Company Lease Agreement and Memorandum of Lease Agreement are to be recorded with the Rockland County Clerk.

Application on Form 412A is to be filed with the Town of Haverstraw Tax Assessor.

Closing completed as above.