

Office of the County Auditor
Auditor’s Analysis – REVISED November 1, 2021

Council Resolution No. 143-2021

Introduced: September 8, 2021

Auditors: Owen Clark and Michael A. Martin

Fiscal Impact:

Our Office was able to estimate that the fiscal impact of this legislation is a property tax abatement of approximately \$462,000 over the 20-year term of this agreement. Details regarding this analysis are outlined in the table below. **See note regarding real property taxes below.**

Total Tax Abatement			
Years	Real Property Taxes (1)	Personal Property Taxes (2)	Total
1 - 10	\$ 1,379	\$ 348,000	\$ 349,379
11 - 20	736	112,000	112,736
Total	\$ 2,115	\$ 460,000	\$ 462,115

NOTE: The above table includes the impact of the amendment, noted in the “Purpose” section, to abate Real Property taxes by 100 percent in years 1 through 10 and 50 percent in years 11 through 20.

- (1) Source: SDAT real property tax assessments and an assumed 2 percent appreciation every three years.
- (2) Source: Project Pro-Forma

NOTE: The State of Maryland’s Department of Assessments and Taxation (SDAT) has indicated that real property used by a solar farm will be assessed as commercial property and an existing agricultural use will be removed according to real property procedures. Also, the solar developer has indicated that the project will absorb any tax increase that results from an increased real property tax assessment due to the solar facility’s presence on the parcel.

Purpose:

This legislation would allow for Community Power Group, LLC (facility owner), and Jack Coogan Fyock, Jr. (landowner), to enter into a payment in lieu of taxes (PILOT) agreement with the County for the generation of electricity on property owned by Jack Coogan Fyock, Jr. This is an Aggregate Net Metering project this is typically used to off-set solar energy to non-profits, governments, or agricultural facilities.

The terms of the PILOT agreement are as follows:

- Years 1 - 10:
 - The landowner will be exempt from paying 50 percent of the County's real property taxes on the condition the landowner pay the County \$1 per year in lieu of exempted taxes.
 - The facility owner will be exempt from paying 100 percent of the County's personal property taxes on the condition the facility owner pay the County \$1 per year in lieu of exempted taxes.

- Years 11 - 20:
 - The landowner will be exempt from paying 25 percent of the County's real property taxes on the condition the landowner pay the County \$1 per year in lieu of exempted taxes.
 - The facility owner will be exempt from paying 50 percent of the County's personal property taxes on the condition the facility owner pay the County \$1 per year in lieu of exempted taxes.

NOTE: The Administration has informed our Office that an amendment will be filed to increase this PILOT's abatement on Real Property tax to 100 percent for years 1 through 10 and 50 percent for years 11 through 20.

Other Comments:

The solar arrays will cover 10.2 of the 33.2 acres available on this property.

Per the solar developer:

- This PILOT agreement is included in the project's current financial projections and is important to achieving the facility owner's desired financial results. Our Office reviewed these financial projections and noted that the project anticipates a positive operating income with and without this PILOT agreement.
- The developer is currently coordinating with a prospective customer that will use energy from this project and that will conform with the State's requirement that it be a religious, non-profit, or government agency within Maryland.
- The solar facility's lease has been structured so that the real property tax abatement will go back into the solar project and not to the landowner.

Unlike the Housing PILOTs, which provide affordable housing to residents of the County, this solar project may end up providing solar power to entities outside of Howard County. Therefore, it is possible that County tax abatements will benefit non-County residents.

We also determined that of the surrounding Counties, only Anne Arundel has a Solar PILOT. However, the solar facility in that case participates in a power purchase agreement that provides power exclusively to Anne Arundel County's Board of Education, the City of Annapolis, and the Anne Arundel County government.

Existing tax incentives for the development and operation of solar facilities include:

- A 50 percent reduction of the assessed value of machinery or equipment used to generate electricity for sale that is subject to County property tax, § 7-237(b) of the Maryland Tax-Property Article, and
- A Federal Business Energy Investment Tax Credit that is currently equivalent to 26 percent of the tax basis of a solar project.