



Howard County

Internal Memorandum

Subject: Testimony on Council Resolution No. ____-2022, a Resolution approving a personal property Payment in Lieu of Taxes Agreement for affiliates of KDC Solar Maryland LLC

To: Lonnie Robbins, Chief Administrative Officer

From: Joshua Feldmark,
J. Feldmark

Date: June 15, 2022

Summary

Resolution ____-2022 supports approval of the terms and conditions of the attached Payment in Lieu of Taxes Agreement (PILOT) by and between Howard County, Maryland and the companies listed in Exhibit A of the attached PILOT.

Background

Howard County entered into a Power Purchase Agreement (PPA) with KDC Solar Maryland LLC (KDC) in May 2020, following approval of CB10-2020. This is currently the largest solar PPA in Maryland. There are no upfront costs to the County. The solar power provider designs, builds, and maintains the solar arrays and the County purchases the electricity they generate. Over the 25-year life of the agreement, Howard County anticipates a nearly \$2 million benefit in electricity savings and incentives. The solar PPA includes rooftop, carport, and ground-mount solar arrays on a minimum of eight County-owned properties as well as several privately-owned properties within the county. The combined arrays will power more than 75 percent of County government operations with clean, renewable solar. They also will reduce greenhouse gas emissions as much as taking 7,000 cars off the road.

Within the PPA, Howard County agreed to request a Payment in Lieu of Taxes Agreement (PILOT) for any applicable personal property taxes and real property taxes associated with the solar projects developed as part of the PPA. A form of PILOT agreement was included as an Appendix to the PPA. The PPA further states that if we do not enter into a PILOT agreement for each property, the added costs to the solar power provider will be charged to Howard County through higher electricity rates.



Howard County

Internal Memorandum

The PPA, Section 9, Taxes and Governmental Fees, states "...County and Power Provider will enter into a payment in lieu of taxes ("PILOT") agreement pursuant to MD CODE ANN., TAX PROPERTY § 7-514, regarding personal property taxes for Solar Facilities that are located in Howard County and real property taxes for County Sites and Power Provider Sites located in Howard County. The personal property PILOT agreement shall be in substantially the form as provided in Exhibit H attached hereto and made a part hereof. The real property PILOT agreements will be executed prior to the date each Solar Facility reaches its Commercial Operations Date. If the County Council does not approve a PILOT agreement for real property taxes assessed against Solar Facilities located in Howard County or if such PILOT agreement is cancelled or suspended not as a result of a default by the beneficiaries, Power Provider shall be entitled to add such taxes to the Renewable Energy Charge on an actual, annual *pro rata* basis."

For additional information about the relationships between KDC and the property owners for each project, see the attached Owner's Certificate from KDC Solar Maryland LLC explaining that each of these owner entities are affiliates of KDC and with which projects they are affiliated.

Fiscal Impact

To calculate the fiscal impact of the personal property tax PILOT, we used the estimated year one equipment value provided by KDC multiplied by the County personal property tax rate to estimate the annual personal property tax amount for each of 17 solar projects. The total year one tax personal property tax estimate across all 17 projects is \$260,702. The personal property tax estimate would be expected to decrease each year by at least 1 percent as the value of the solar panels and associated equipment degrades. See table below for additional details.

Although these estimates give a sense of a theoretical fiscal impact to the County of a PILOT for these projects, at the same time, the true fiscal impact of this project is zero. It is zero because without this Solar Power Purchase Agreement and the PILOTs it requires, these projects would not have been built and therefore no tax revenue would have been generated. And secondly, because of the terms of the PPA, if the County does not grant a personal property PILOT for these projects, the County will pay more for the power generated by the solar arrays in the exact amount charged in taxes, leaving the County with no net financial gain or loss.



Howard County

Internal Memorandum

Personal Property Tax Estimates		
	Personal Property Tax Rate	
	0.02535	
Project Name	Approximate Equipment Value (year one)	County Tax
KDC Solar 50 LLC	\$ 30,360	\$ 770
KDC Solar CV Ascend One LLC	\$ 1,014,682	\$ 25,722
KDC Solar CV Central MD Regional Transit LLC	\$ 884,137	\$ 22,413
KDC Solar CV O'Donnell Property LLC	\$ 884,137	\$ 22,413
KDC Solar CV Animal Control LLC	\$ 884,137	\$ 22,413
KDC Solar CV Cedar Lane Park LLC	\$ 884,137	\$ 22,413
KDC Solar HC LLC	\$ 369,960	\$ 9,378
KDC Solar DC LLC	\$ 113,568	\$ 2,879
KDC Solar ECL Dorsey Run SPS LLC	\$ 775,547	\$ 19,660
KDC Solar ECL LLC	\$ 118,240	\$ 2,997
KDC Solar Gateway Chestnut Hills WPS LLC	\$ 934,779	\$ 23,697
KDC Solar Gateway LLC	\$ 38,949	\$ 987
KDC Solar SPS LLC	\$ 52,013	\$ 1,319
KDC Solar TC Little Patuxent WWTP LLC	\$ 1,161,652	\$ 29,448
KDC Solar TC Blandair Park LLC	\$ 1,122,226	\$ 28,448
KDC Solar TC George Howard LLC	\$ 967,715	\$ 24,532
KDC Solar WLF LLC	\$ 47,912	\$ 1,215
Total		\$ 260,702.8

KDC SOLAR MARYLAND LLC

OFFICER'S CERTIFICATE


The undersigned, being a duly qualified and authorized officer of KDC Solar Maryland LLC, a Delaware limited liability company (the "Company"), acting solely in such capacity and not individually does hereby certify on behalf of the Company as follows and, in each case, as of the date written below that:

1. The following entities are subsidiaries of KDC Solar Maryland LLC and successors in interest and lessees under certain leases with Clear View Farm, LLC:
 - a. KDC Solar CV Ascend One LLC, successor in interest from SED PJM Holdings LLC, as Lessee
 - b. KDC Solar CV Central MD Regional Transit LLC, successor in interest from SED PJM Holdings LLC, as Lessee
 - c. KDC Solar CV O'Donnell Property LLC, successor in interest from SED PJM Holdings LLC, as Lessee
 - d. KDC Solar CV Animal Control LLC, successor in interest from SED PJM Holdings LLC, as Lessee
 - e. KDC Solar CV Cedar Lane Park LLC, successor in interest from SED PJM Holdings LLC, as Lessee
2. The following entities are subsidiaries of KDC Solar Maryland LLC and successors in interest and lessees under certain leases with Triple Creek Farm Properties LLC:
 - a. KDC Solar TC Little Patuxent WWTP LLC, successor in interest from P52ES 12855 Frederick Road Phase 1 LLC
 - b. KDC Solar TC Blandair Park LLC, successor in interest from P52ES 12855 Frederick Road Phase 2 LLC
 - c. KDC Solar TC George Howard LLC, successor in interest from P52ES 12855 Frederick Road Phase 3 LLC
3. KDC Solar HC LLC is an affiliate of KDC Solar Maryland LLC and is the owner of the solar project at the Howard County Courthouse.
4. The following entities are subsidiaries of KDC Solar Maryland LLC and will own solar projects on sites owned by Howard County:
 - a. KDC Solar DC LLC
 - b. KDC Solar WLF LLC
 - c. KDC Solar SPS LLC
 - d. KDC Solar ECL LLC
 - e. KDC Solar ECL Dorsey Run SPS LLC
 - f. KDC Solar Gateway LLC

g. KDC Solar Gateway Chestnut Hills WPS LLC

5. Upon closing of the financing, KDC Solar 50 LLC will be a subsidiary of KDC Solar Maryland LLC and will own the solar project on a site owned by Howard County

IN WITNESS WHEREOF, the undersigned has executed this Officer's Certificate to be delivered as of the 18th day of June, 2022.

By: 

Name: Melinda Baglio

Title: Authorized Signatory