



Howard County

Internal Memorandum

Subject: Testimony on Council Resolution No. _____-2022, a Resolution approving a real property Payment in Lieu of Taxes Agreement for Triple Creek Farm Properties LLC and various affiliates of KDC Solar Maryland LLC and Council Resolution No. _____-2022, a Resolution approving a real property Payment in Lieu of Taxes Agreement for Clear View Farm LLC and various affiliates of KDC Solar Maryland LLC.

To: Lonnie Robbins, Chief Administrative Officer

From: Joshua Feldmark,
J. Feldmark

Date: June 17, 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, Triple Creek Farm Properties LLC, and various affiliates of KDC Solar Maryland LLC.

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, Clear View Farm LLC, and various affiliates of KDC Solar Maryland LLC.

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.



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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.

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 real property tax for the PILOT on each of privately-owned properties, we used the most recent real property tax bill for the entire property and multiplied it by the percentage of the property that would be occupied by the solar arrays. For Triple Creek Farm, that value is approximately \$100 per year (2021 tax bill of \$361.53 x 0.28, as the solar area is 28 percent of the total parcel). For Clear View Farm, that value is approximately \$3,696 per year (2021 tax bill of \$11,845.3 x 0.31, as the solar area is 31 percent of the total parcel). The tax amount per year is subject to change based on the property

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. According to the terms of the PPA, if the County does not grant a real property PILOT for these projects built



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on private property, 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.

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