

**Office of the County Auditor**  
**Auditor's Analysis**

**Council Resolution No. 110-2022**

Introduced: July 5, 2022  
Auditor: Michael A. Martin

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Fiscal Impact:

The passage of this legislation will result in estimated foregone real property tax revenues of \$102,000 over the 30-year term of the agreement.

However, as noted in the Administration's testimony, if this legislation is not passed the fiscal impact will be a cost to the County for the same amount, \$102,000, over the 30-year term of the agreement. This is because terms of the Power Purchase Agreement (PPA), approved via Council Bill 10-2020, would require the County to pay more for the power generated by the solar facilities in the exact amount of the real property taxes incurred if a PILOT (payment in lieu of taxes) Agreement for such taxes is not approved.

This amount was calculated by taking Clear View Farm, LLC's, latest real property County tax assessment of \$10,985 and multiplying it by the percentage of the property (31 percent) that will be abated. Our Office passed on estimating the future assessment increases of this property as we are unable to determine future increases or if the property will be designated with a commercial use in the future. A breakdown of our estimates is shown in **Attachment A** to this fiscal impact.

Purpose:

This legislation approves the terms and conditions of a PILOT Agreement between the County and Clear View Farm, LLC, and five affiliates of KDC Solar Maryland, LLC (KDC). These affiliates will be working with Clear View Farm, LLC, to develop and construct alternative and renewable energy projects on approximately 37 acres of the total 120-acre property (or roughly 31 percent of the total property).

In lieu of paying real property taxes, Clear View Farm, LLC, will pay the County ten dollars each year over a 30-year period as detailed in the renewable energy PPA. In order to fulfill the terms of the renewable energy PPA, these five KDC affiliates have entered into Solar Energy Lease and Easement Agreements with the owners of Clear View Farm, LLC.

### Other Comments:

Similar to previously approved PILOT Agreements, this legislation states (starting on page 2, line 5) that the owner and energy project operator demonstrated to the County that this PILOT Agreement is necessary to make the solar project economically feasible. The Director of the Office of Community Sustainability (the Director), however, informed our Office that the financial viability of the proposed solar project was irrelevant in determining whether this PILOT Agreement should be awarded, and would not object should a Councilmember wish to remove this language from the text of the legislation.

As noted above, there is an existing power purchase agreement between the County and KDC that authorizes the County to purchase up to 50 million kWh of renewable energy each year at a price of \$0.07391 per kWh over a 25-year period with the option for a 5-year extension.

The Director has indicated County savings will be recognized from the PPA of \$1.6 million over the course of the PILOT Agreement. These savings, provided by the Administration, are from discounted energy rates of \$1.2 million provided to the County through the PPA and Renewable Energy Credits to the County from KDC totaling \$375,000.

The Director also indicated an incentive provided by the PPA is a \$382,000 grant from KDC that will be issued to the County in order to purchase electric vehicle charging stations. Our Office would like to note that the amount of this award should not be considered part of this legislation's fiscal impact, as the Director has indicated the award is expected to be received in FY 2023 regardless of this legislation's approval.

Additional details and information regarding the Clear View Farm, LLC, sites can be found on **Attachment B**.

Council Resolution 109-2022 is the related legislation that establishes a PILOT Agreement for personal property taxes between the County and KDC. Council Resolution 111-2022 is similar to this resolution in that it is a PILOT Agreement to abate real property taxes for Triple Creek Farms, LLC.

Each year, the Owner or Energy Project Operators must submit a report to the Office of Community Sustainability (OCS) that includes the amount of electricity generated by the project and the amount of energy used by the County during that preceding year. The OCS is to certify this annual report as detailed in Section 3 of the PPA, Conditions Precedent to Solar Facility Acceptance Testing.

Clear View Farm, LLC, and the five KDC subsidiaries entered into a lease agreement on July 29, 2021, that includes a construction term of three months with the option for three consecutive 3-month extensions. The operations term is 20 years following the Operations Date. There is an option to extend the operations term up to four times with each extension lasting 5 years. Our Office recently received copies of these lease agreements and is currently reviewing their terms.

Although the Director confirmed the company is no longer involved in any manner, SunEast Development LLC was the solar developer which created the subsidiary that originally entered the lease agreement with Clear View Farm, LLC. KDC then purchased this subsidiary from SunEast Development LLC and created five new subsidiaries as successors in interest to the leases.

The Director did confirm that Section D of the PILOT Agreement in Exhibit 1 is missing. An amendment will be submitted to correct this typo, so the sections are properly numbered.

**Attachment A – Clear View Farm, LLC, Fiscal Impact Calculation**

<b>Estimated Real Property Tax Abatement per PILOT</b>	
Assessable Value (per 2021 Property Tax Bill)	1,083,300
Tax Rate (per \$100)	1.014
Real Property Tax Bill	10,985
% Project Site Subject to PILOT Agreement*	31%
Annual Real Property Tax Abatement per PILOT	3,401
<b>Total Real Property Tax Abatement (30 years)</b>	<b>102,016</b>

**Note:** The above calculation may be immaterially impacted by rounding.

\*Based on our Office's review, the project will occupy approximately 31 percent of the property owner's total parcel.

**Attachment B - Clear View Farm, LLC, Sites**

Site	Address	Type	Capacity (MW DC)	Anticipated Commercial Operational Date	Estimated kWh Generation (Year 1)
CV Ascend One – Clear View I	13370 Route 144 West Friendship, MD 21794	Ground Mount	2.986	March 2023	18,638,600
CV Central MD Regional Transit – Clear View II		Ground Mount	2.368	March 2023	
CV O'Donnell Property – Clear View III		Ground Mount	2.368	March 2023	
CV Animal Control – Clear View III		Ground Mount	2.414	March 2023	
CV Cedar Lane Park – Clear View V		Ground Mount	2.357	March 2023	