

Office of the County Auditor
Auditor's Analysis

Council Resolution No. 111-2022

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

Fiscal Impact:

The passage of this legislation will result in estimated foregone real property tax revenues of \$3,800 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, \$3,800, 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 Triple Creek Farm Properties, LLC's, latest real property County tax assessment of \$397 and multiplying it by the percentage of the property (32 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 Triple Creek Farm Properties, LLC, and three affiliates of KDC Solar Maryland, LLC (KDC). These affiliates will be working with Triple Creek Farm Properties, LLC, to develop and construct alternative and renewable energy projects on approximately 27 acres of the total 86-acre property (or roughly 32 percent of the total property).

In lieu of paying real property taxes, Triple Creek Farm Properties, 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 three KDC affiliates have entered into Solar Energy Lease and Easement Agreements with the owners of Triple Creek Farm Properties, 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 PPA 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 Triple Creek Farm Properties, 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 110-2022 is similar to this resolution in that it is a PILOT Agreement to abate real property taxes for Clear View 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.

Triple Creek Farm Properties, LLC, and the three KDC subsidiaries entered into a lease agreement on February 12, 2020. The term of each lease agreement began on this date and expires on the 25th anniversary date of the Commercial Operation Date with an option for two 5-year extensions. 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, Power52 Foundation was the original solar developer that created the three subsidiaries that originally entered the lease agreement with Triple Creek Farm Properties, LLC. Power52 Foundation assigned the subsidiaries to KDC who then changed their names to the ones referenced on the Owner's Certificate (Exhibit C to Council Resolution 111-2022).

The Director confirmed 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. The Director also confirmed another amendment will be requested to correct Triple Creek Farm Properties, LLC's, acreage and abatement percentage as noted in Exhibit 1. The acreage of the entire parcel should show 85.739 acres instead of 110 acres. This will also result in a revised abatement percentage to show 32 percent instead of the 28 percent as shown on Exhibit C.

Attachment A – Triple Creek Farm Properties, LLC, Fiscal Impact Calculation

Estimated Real Property Tax Abatement per PILOT	
Assessable Value (per 2021 Property Tax Bill)	39,200
Tax Rate (per \$100)	1.014
Real Property Tax Bill	397
% Project Site Subject to PILOT Agreement*	32%
Annual Real Property Tax Abatement per PILOT	127
Total Real Property Tax Abatement (30 years)	3,811

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

*Based on our Office's review, the project will occupy approximately 32 percent of the property owner's total parcel.

Attachment B – Triple Creek Farm Properties, LLC, Sites

Site	Address	Type	Capacity (MW DC)	Anticipated Commercial Operational Date	Estimated kWh Generation (Year 1)
TC Little Patuxent WWTP- Triple Creek I	12855 Frederick Road West Friendship, MD 21794	Ground Mount	2.883	August 2022	13,516,845
TC Blandair Park – Triple Creek II		Ground Mount	2.963	August 2022	
TC George Howard – Triple Creek III		Ground Mount	2.746	August 2022	