

**PILOT DEVIATION NOTICE RESOLUTION  
NY INDEPENDENCE STATE ROUTE 248 SOLAR LLC PROJECT**

A regular meeting of Allegany County Industrial Development Agency (the "Agency") was convened in public session at the offices of the Agency located at Crossroads Commerce & Conference Center located at 6087 State Route 19 North in the Village of Belmont, Allegany County, New York on January 14, 2021 at 10:00 o'clock a.m., local time.

The meeting was called to order by the (Vice) Chairman of the Agency and, upon roll being called, the following members of the Agency were:

**PRESENT:**

|                    |               |
|--------------------|---------------|
| Richard Ewell      | Chairman      |
| Judy Hopkins       | Vice Chairman |
| Randy Shayler      | Secretary     |
| Douglas Frank      | Treasurer     |
| Michael Johnsen    | Member        |
| Ward "Skip" Wilday | Member        |

Each of the members present participated in the meeting telephonically pursuant to Executive Order No. 202.1, as supplemented, issued by New York State Governor Andrew M. Cuomo, suspending provisions of Article 7 of the Public Officers Law that require public in-person access to public meetings and authorizing board members to participate in said meetings by conference call or similar service.

**ABSENT:**

**AGENCY STAFF PRESENT INCLUDED THE FOLLOWING:**

|                             |                    |
|-----------------------------|--------------------|
| Craig R. Clark, P.E., Ph.D. | Executive Director |
|-----------------------------|--------------------|

The following resolution was offered by S. Wilday, seconded by R. Shayler, to wit:

Resolution No. 0121-3

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO SEND A LETTER TO THE CHIEF EXECUTIVE OFFICERS OF THE AFFECTED TAXING ENTITIES INFORMING THEM OF A PROPOSED DEVIATION FROM THE AGENCY'S UNIFORM TAX EXEMPTION POLICY IN CONNECTION WITH THE PROPOSED NY INDEPENDENCE STATE ROUTE 248 SOLAR LLC PROJECT.

WHEREAS, Allegany County Industrial Development Agency (the "Agency") is authorized and empowered by the provisions of Chapter 1030 of the 1969 Laws of New York, constituting Title 1 of Article 18-A of the General Municipal Law, Chapter 24 of the Consolidated Laws of New York, as amended (the "Enabling Act") and Chapter 99 of the 1973 Laws of New York, as amended, constituting Section 906-a of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of manufacturing, warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting,

warehousing, research, commercial and industrial facilities, among others, for the purpose of promoting, attracting and developing economically sound commerce and industry to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, to accomplish its stated purposes, the Agency is authorized and empowered under the Act to acquire, construct, reconstruct and install one or more “projects” (as defined in the Act), or to cause said projects to be acquired, constructed, reconstructed and installed, and to convey said projects or to lease said projects with the obligation to purchase; and

WHEREAS, NY Independence State Route 248 Solar LLC, a limited liability company (the “Company”), has submitted an application (the “Application”) to the Agency, a copy of which Application is on file at the office of the Agency, requesting that the Agency consider undertaking a project (the “Project”) for the benefit of the Company, said Project consisting of the following: (A) (1) the acquisition of an interest in an approximately 15 acre portion of an approximately 262 acre parcel of land (portion of Tax Map Number 268.1-11.2) located at 1550 State Route 248 in the Town of Independence, Allegany County, New York (the “Land”), (2) the construction on the Land of an approximately 1.5 MWAC solar energy generating facility, associated electrical appurtenances and any other required improvements (all said improvements being collectively referred to as the “Facility”) and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other personal property (the “Equipment”), all of the foregoing to constitute a solar energy generating facility to be owned and operated by the Company (the Land, Facility and the Equipment being collectively referred to as the “Project Facility”); (B) the granting of certain “financial assistance” (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the “Financial Assistance”); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency; and

WHEREAS, by resolution adopted by the members of the Agency on January 14, 2021 (the “Public Hearing Resolution”), the Agency authorized a public hearing to be held pursuant to Section 859-a of the Act with respect to the Project; and

WHEREAS, in connection with the Application, the Company has made a request to the Agency (the “PILOT Request”) to deviate from its uniform tax exemption policy (the “Policy”) with respect to the payments to be made under a payment in lieu of tax agreement by and between the Agency and the Company (the “Proposed PILOT Agreement”); and

WHEREAS, pursuant to the PILOT request, the Proposed PILOT Agreement would be for a term of fifteen (15) years with a fixed payment each year during the term thereof, as more particularly described in Exhibit A attached hereto; and

WHEREAS, the Policy provides that, for a facility similar to the Project Facility, payments in lieu of taxes will normally be determined as follows: the Company would have the benefit of a 100% abatement in real property taxes on the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law (collectively with the Facility, the “Improvements”) in years one through five of the payment in lieu of tax agreement with a 10% per year increase over the remainder of the term of the ten year payment in lieu of tax agreement; and

WHEREAS, pursuant to Section 874(4) of the Act and the Policy, prior to taking final action on such PILOT Request for a deviation from the Policy, the Agency must give the chief executive officers of

the County and each city, town, village and school district in which the Project is located (collectively, the "Affected Tax Jurisdictions") prior written notice of the proposed deviation from the Policy and the reasons therefore; and

WHEREAS, pursuant to Section 865(15) of the Act, unless otherwise agreed by the Affected Tax Jurisdictions, payments in lieu of taxes must be allocated among the Affected Tax Jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each Affected Tax Jurisdiction had the Project Facility not been tax exempt due to the status of the Agency;

NOW, THEREFORE, BE IT RESOLVED BY THE MEMBERS OF ALLEGANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY AS FOLLOWS:

Section 1. Having considered both the Application and the PILOT Request, the Agency hereby authorizes the Executive Director of the Agency to send a written notice to the chief executive officers of each of the Affected Tax Jurisdictions informing them that the Agency is considering a proposed deviation from the Policy with respect to the Project and the reasons therefore (in substantially the form of the draft of said letter attached hereto as Exhibit A), and soliciting any comments that such Affected Tax Jurisdictions may have with respect to said proposed deviation.

Section 2. This Resolution shall take effect immediately.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call, which resulted as follows:

|                    |        |     |
|--------------------|--------|-----|
| Richard Ewell      | VOTING | AYE |
| Judy Hopkins       | VOTING | AYE |
| Randy Shayler      | VOTING | AYE |
| Douglas Frank      | VOTING | AYE |
| Michael Johnsen    | VOTING | AYE |
| Ward "Skip" Wilday | VOTING | AYE |

The foregoing Resolution was thereupon declared duly adopted.

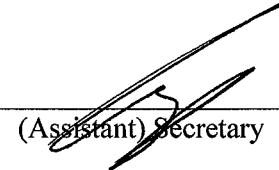
STATE OF NEW YORK                    )  
  ) SS.:  
COUNTY OF ALLEGANY                )

I, the undersigned (Assistant) Secretary of Allegany County Industrial Development Agency (the "Agency"), DO HEREBY CERTIFY that I have compared the foregoing annexed extract of the minutes of the meeting of the members of the Agency, including the Resolution contained therein, held on January 14, 2021 with the original thereof on file in my office, and that the same is a true and correct copy of said original and of such Resolution contained therein and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that (A) all members of the Agency had due notice of said meeting; (B) said meeting was in all respects duly held; (C) pursuant to Article 7 of the Public Officers Law (the "Open Meetings Law") except as modified by Executive Order 202.1, as supplemented, said meeting was open to the general public, and due notice of the time and place of said meeting was duly given in accordance with such Open Meetings Law; and (D) there was a quorum of the members of the Agency present, either in-person or appearing telephonically in accordance with Executive Order 202.1, as supplemented, throughout said meeting.

I FURTHER CERTIFY that, as of the date hereof, the attached Resolution is in full force and effect and has not been amended, repealed or rescinded.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this \_\_\_\_\_ day of January, 2021.

  
\_\_\_\_\_  
(Assistant) Secretary

(SEAL)

EXHIBIT A  
PROPOSED FORM OF PILOT DEVIATION LETTER

ALLEGANY COUNTY INDUSTRIAL DEVELOPMENT AGENCY

Crossroads Commerce & Conference Center

6087 State Route 19 North

Belmont, New York 14813

Tel: 585-268-7445

Fax: 585-268-7473

January 14, 2021

Curtis W. Crandall, Chairman  
Allegany County Board of Legislators  
County Office Building  
7 Court Street  
Belmont, New York 14813

Tammy M. Emery, Superintendent  
Whitesville Central School District  
692 Main Street  
Whitesville, New York 14897

Jeri Reichman, Town Supervisor  
Town of Independence  
PO Box 38  
887 Marietta Avenue  
Whitesville, New York 14897

Jeffrey Erdmann, Board President  
Whitesville Central School District  
692 Main Street  
Whitesville, New York 14897

RE: Proposed Deviation from Uniform Tax Exemption Policy by  
Allegany County Industrial Development Agency  
in connection with its Proposed NY Independence State Route 248 Solar LLC Project

Dear Ladies and Gentlemen:

This letter is delivered to you pursuant to Section 874(4)(c) of the General Municipal Law.

Allegany County Industrial Development Agency (the "Agency") received an application (the "Application") from NY Independence State Route 248 Solar LLC (the "Company"), which Application requested that the Agency consider undertaking a project (the "Project") for the benefit of the Company, said Project to consist of the following: (A) (1) the acquisition of an interest in an approximately 15 acre portion of an approximately 262 acre parcel of land (portion of Tax Map Number 268.1-11.2) located at 1550 State Route 248 in the Town of Independence, Allegany County, New York (the "Land"), (2) the construction on the Land of an approximately 1.5 MWAC solar energy generating facility, associated electrical appurtenances and any other required improvements (all said improvements being collectively referred to as the "Facility") and (3) the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other personal property (the "Equipment"), all of the foregoing to constitute a solar energy generating facility to be owned and operated by the Company (the Land, Facility and the Equipment being collectively referred to as the "Project Facility"); (B) the granting of certain "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to the foregoing, including potential exemptions from certain sales and use taxes, real property taxes, real estate transfer taxes and mortgage recording taxes (collectively, the "Financial Assistance"); and (C) the lease (with an obligation to purchase) or sale of the Project Facility to the Company or such other person as may be designated by the Company and agreed upon by the Agency.

In connection with the Application, the Company has made a request to the Agency (the "PILOT Request") to enter into a payment in lieu of tax agreement (the "Proposed PILOT Agreement") which

terms would deviate from the Agency's Uniform Tax Exemption Policy (the "Policy"). Capitalized terms not otherwise defined herein are defined in the Policy.

The Proposed PILOT Agreement would not provide any abatements for any special assessments levied on the Project Facility. The Proposed PILOT Agreement would be for a term of fifteen (15) years with the following abatement schedule:

100% Abatement for 15 years  
\$2,500 per MW AC of installed solar capacity, increasing 2% per year.

The Policy provides that, for a facility similar to the Project Facility, payments in lieu of taxes will normally be determined as follows: the Company would have the benefit of a 100% abatement in real property taxes on the Facility and any portion of the Equipment assessable as real property pursuant to the New York Real Property Tax Law (collectively with the Facility, the "Improvements") in years 1 to 5 of the payment in lieu of tax agreement with a ten percent per year increase over the remaining term of the fifteen year payment in lieu of tax agreement.

The purpose of this letter is to inform you of such PILOT Request and that the Agency is considering whether to grant the PILOT Request and to approve the Proposed PILOT Agreement conforming to the terms of the PILOT Request. The Agency expects to consider whether to approve the terms of the Proposed PILOT Agreement at its meeting scheduled for February 11, 2021 at 10 a.m., local time at the offices of the Agency located at Crossroads Commerce & Conference Center, 6087 State Route 19 North – Suite 100, Belmont, New York 14813 (the "Meeting"). As described in this letter, during the Meeting the Agency will review the terms of the PILOT Request and, based on the discussions during such Meeting, the terms of the PILOT Request may be modified.

The Agency considered the following factors in considering the proposed deviation:

1. **The nature of the Project:** Construction of a solar energy generating facility on the Land, including the acquisition and installation therein and thereon of related fixtures, machinery, equipment and other tangible personal property.
2. **The present use of the property:** The property is currently a dairy farm.
3. **The economic condition of the area at the time of the request of the Company and the economic multiplying effect that the Project will have on the area:** The project is located in the Town of Independence. At the time of the filing of the Application, the economic condition of the area in which the Project Facility is located is generally average to poor. The Project is expected to create construction jobs and reduce carbon emissions. Additional benefits created by the Project are described in the Application.
4. **The extent to which the Project will create or retain permanent, private sector jobs and the number of jobs to be created or retained and the salary range of such jobs:** The Project is expected to create 20 construction jobs.
5. **The estimated value of new tax exemptions to be provided:** Sales tax exemption: \$211,680.00; real property tax exemption (net of PILOT): \$329,459.11 and mortgage recording tax \$ 21,262.50.
6. **The economic impact of the Proposed PILOT Agreement on affected tax jurisdictions:** The development of the Project Facility will increase revenues to the community;

supports continued farming operations through a lease stream and eventual restoration of farm property and have a positive effect on the affected tax jurisdictions.

7. **The impact of the Proposed PILOT Agreement on existing and proposed businesses and economic development projects in the vicinity:** It is hoped that the Project will have a positive effect on existing and proposed businesses and economic development projects in the vicinity of the Project as the Project will rely on local services and procure construction materials locally.
8. **The amount of private sector investment generated or likely to be generated by the Proposed PILOT Agreement:** Estimated private sector equity: \$3,780,000.
9. **The effect of the Proposed PILOT Agreement on the environment:** The Project is not expected to have any significant environmental impacts on the environment.
10. **Project Timing:** Completion anticipated by June 30, 2022.
11. **The extent to which the Proposed Pilot Agreement will require the provision of additional services including, but not limited to, additional educational, transportation, police, emergency medical or fire services:** It is not anticipated that any additional educational, transportation, police, emergency medical or fire services will be required as a result of the Project.
12. **Anticipated tax revenues/Host Community Benefit Agreements:** It is expected that revenues will increase due to the undertaking of the Project, including PILOT/Host payments the first 15 years of \$ 121,918.59.
13. **The extent to which the Proposed PILOT Agreement will provide a benefit (economic or otherwise) not otherwise available within the municipality in which the Project Facility is located:** The benefit is a positive one economically, in that the Project will promote the development of the Town of Independence, and residents will benefit from reduced energy costs if they subscribe to the Project.

The Agency will consider the Proposed PILOT Agreement (and the proposed deviation from the Agency's Uniform Tax Exemption Policy) at the Meeting. The Agency would welcome any written comments that you might have on this proposed deviation from the Agency's Uniform Tax Exemption Policy. In accordance with Section 874(4)(c) of the General Municipal Law, prior to taking final action at the Meeting, the Agency will review and respond to any written comments received from any affected tax jurisdiction with respect to the proposed deviation. The Agency will also allow any representative of any affected tax jurisdiction present at the Meeting to address the Agency regarding the proposed deviation.

If you have any questions or comments regarding the foregoing, please do not hesitate to contact me at the above telephone number.

Sincerely yours



Dr. Craig M. Clark