

TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”)

**NOTICE OF DEVIATION
FROM THE COUNTYWIDE INDUSTRIAL DEVELOPMENT AGENCY
UNIFORM TAX EXEMPTION POLICY (“UTEP”)**

This Notice of Deviation is being issued to the affected taxing jurisdictions and industrial development agencies listed on the attached distribution list in accordance with Section 874 of the General Municipal Law of the State of New York and the applicable provisions of the UTEP, which require the Agency to provide written notice to affected taxing jurisdictions and all other IDAs located in Erie County prior to the Agency taking final action with respect to a proposed payment in lieu of real estate tax agreement, if said agreement deviates from the provisions of the UTEP.

Description of the Project

AMHERST COMMUNITY SOLAR LLC, on behalf of itself or an affiliate, subsidiary or other entity formed or to be formed (the “Applicant”) has submitted an application to the Agency requesting the Agency to undertake a certain project (the “Project”) consisting of: (i) the acquisition of an interest in a 21.5+/- acre parcel of vacant land located at 595 Schoelles Road (the “Land”); (ii) the construction thereon of an approximately 5.0 megawatt (MW) AC community solar electric generating facility, including panels, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, screening and related improvements (collectively, the “Improvements”); and (iii) the acquisition of and installation in and around the Land and Improvements by the Applicant of machinery, equipment, fixtures and other items of tangible personal property (the “Equipment” and, together with the Land and the Improvements, the “Facility”). The Project is located in the Williamsville Central School District.

Proposed Financial Assistance

The Agency contemplates that it will provide financial assistance to the Applicant for qualifying portions of the Project in the form of: (i) an exemption from all State and local sales and use taxes with respect to qualifying personal property included in or incorporated into the Facility or used in the acquisition, construction or equipping of the Facility, in an amount up to \$166,250.00 and (ii) a twenty-five (25) year partial abatement of real property taxes pursuant to a customized, non-standard payment in lieu of real estate tax agreement as described below.

Deviation From the UTEP

The proposed financial assistance for the Project constitutes a deviation from the UTEP to the extent that the Applicant has requested that the Agency enter into Agreement for Payment in Lieu of Real Estate Taxes (“PILOT Agreement”) providing for annual payments of \$4500.00 per MW, subject to an annual increase of 2% over the twenty-five (25) year term of the PILOT Agreement. The UTEP does not contain provisions relating to renewable energy projects or the structuring of PILOT Agreements that provide for payments on a dollar amount per MW basis.

Payments in lieu of taxes will be allocated among the affected taxing jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected taxing jurisdiction had the Project not been tax exempt due to the status of the Agency.

In support of the proposed deviation, the Agency will consider the following factors prior to approving the proposed deviation from the UTEP:

1. The extent to which the Project will create or retain permanent private sector jobs.

The Applicant has represented that construction jobs will be created during the construction time period, and that two part-time positions relating to the operation of the Facility will be created.

2. The estimated value of tax exemptions to be provided.

The estimated value of the sales and use tax benefit for the Project is an amount up to \$166,250.00. Given the uncertainty regarding the manner by which the Facility will be assessed as a solar generating facility and the uncertainty regarding the affected taxing jurisdictions' future tax rates, it is difficult to quantify at this time the estimated value of the real property tax exemption.

3. Whether affected taxing jurisdictions will be reimbursed by the Project occupant if the Project does not fulfill the purposes for which an exemption was provided.

The Applicant will be subject to potential financial assistance recapture in the event the Applicant does not adhere to the Agency's standard material terms and conditions governing the receipt of financial assistance.

4. The impact of the proposed project on existing and proposed businesses and economic development projects in the vicinity.

The impact of the Project is a positive one on the community, as it will promote job opportunities, general prosperity and economic welfare for the residents of Erie County and the Town of Amherst and in addition, the Project will help fulfill alternative, renewable, green energy needs of the State of New York.

5. The amount of private sector investment generated or likely to be generated by the proposed Project.

The total private sector investment in the Project is expected to exceed approximately \$8,568,400.00.

6. The demonstrated public support for the Project.

The Town of Amherst has expressed its support for the Project. The Town of Amherst Planning Board approved the Site Plan for the Project on January 21, 2021. The Amherst

Town Board approved Applicant's request for a special use permit on February, 21, 2021.

7. The likelihood of accomplishing the proposed Project in a timely fashion.

The Project is expected to be completed in a timely manner. Construction is expected to be completed by September 30, 2021.

8. The effect of the proposed Project upon the environment.

The Town of Amherst Planning Board issued a negative declaration pursuant to SEQRA that the Project will not have a significant adverse effect on the environment. The production of alternative, renewal, green energy is consistent with New York State energy goals and policies.

9. The extent to which the Project will utilize, to the fullest extent practicable and economically feasible, resource conservation, energy efficiency, green technologies, and alternative and renewable energy measures.

The Project involves the construction and equipping of a solar electricity generating facility, which constitutes a renewable energy project.

10. The extent to which the proposed Project will require the provision of additional services including, but not limited, educational, transportation, emergency medical or police and fire services.

The Project is not expected to require the provision of additional services.

11. The extent to which the proposed Project will provide additional sources of revenue for municipalities and school districts.

The Project site currently consists of vacant land. The Project will generate additional sources of revenue from the PILOT payments which would otherwise not be received if the Project does not proceed.

[Distribution List Follows]

DISTRIBUTION LIST

Affected Taxing Jurisdictions:

Hon. Mark C. Poloncarz
Erie County Executive
95 Franklin Street
Buffalo, New York 14202

Hon. Brian Kulpa, Supervisor
Town of Amherst
5583 Main Street
Amherst, New York 14221

Dr. John McKenna
Superintendent
Williamsville Central School District
105 Casey Road
Williamsville, New York 14051

Theresa Anne Leatherbarrow
School Board President
Williamsville Central School District
Williamsville, New York 14051

Industrial Development Agencies:

Erie County Industrial Development Agency
95 Perry Street, Suite 402
Buffalo, New York 14203
Attn: John Cappellino, President & CEO

Town of Concord Industrial Development Agency
Concord Town Hall
86 Franklin Street
Springville, New York 14141
Attn: Gary Eppolito, Chair

Town of Lancaster Industrial Development Agency
Town Hall, 21 Central Avenue
Lancaster, New York 14086
Attn: Ronald Ruffino, Sr., Chair

Town of Clarence, Erie County, Industrial Development Agency
One Town Place
Clarence, New York 14031
Attn: Christopher Kempton, Chair

Town of Hamburg Industrial Development Agency
6122 South Park Avenue
Hamburg, New York 14075
Attn: Sean Doyle, Executive Director