

Office of the County Auditor
Auditor's Analysis

Council Resolution No. 34-2023

Introduced: February 6, 2023

Auditor: Lori Buchman and Michael Martin

Fiscal Impact:

Based on our review of the proposed legislation and the project's financial projections provided by the facility owner, the fiscal impact of this legislation would be a property tax abatement of approximately \$441,100 over the 20-year term of this agreement. This fiscal impact assumes there is not a provision for the percentage of energy generated to subscribers in Howard County.

We were informed by the Director of the Office of Consumer Sustainability (OCS) that an amendment would be filed to make the percentage of the abatement dependent upon the rate of energy utilized within Howard County. In anticipation of such an amendment, we also calculated the fiscal impact if the energy utilized within Howard County is less than 50 percent. The fiscal impact of this scenario would be a property tax abatement of approximately of \$305,600 over the 20-year term of this agreement. Please see **Attachment A** for more detail on each abatement scenario.

As noted in **Attachment A**, SDAT has indicated that the assessed value of land developed for use as a solar facility will be estimated at \$20,000 per acre. To review this assumption, we compared the 2022 assessment of 13300 Frederick Road, which was recently developed as a solar facility and found the assessment increased by approximately \$18,133 per acre, which is generally consistent with SDAT's estimate.

If the solar projects are completed, the property would be assessed fire tax on both personal and real property. Based on the information in the financial projections and SDAT, the estimated amount of additional fire tax that would be generated is \$129,200. Of this amount, \$123,200 is attributable to the personal property fire tax and \$6,000 is real property fire tax. This revenue would be recognized in the Fire Fund.

During our Office's review of the project's financial projections, we noted that a one percent annual escalation rate to the personal property tax rate was utilized. The fiscal impact noted above was prepared using a constant personal property tax rate of 2.535 percent per \$100 of assessed value.

The facility owner has indicated that if the County does not offer a Payment in Lieu of Taxes (PILOT) agreement, then the project will not be able to move forward. We noted that the facility is projected to generate positive cash flow either with or without the PILOT agreement.

NOTE: The amount of tax abatement noted above differs from the Administration’s testimony, prepared by the Director of the Office of Community Sustainability (OCS) because the facility owner revised the project’s financial projections. OCS has indicated that a revision to their testimony is being prepared.

Purpose:

This legislation would allow for Community Power Group LLC (facility owner), and Dale Haylett (landowner), to enter into a 20-year PILOT agreement with the County for the construction and operation of an approximately 6-acre commercial ground-mount solar collector facility located at 14777 Roxbury Road. This is a community solar project which allows for individual customers to purchase the energy generated from this project.

The terms of the PILOT are as follows:

- Years 1 - 10:
 - The landowner will be exempt from paying 50 percent of the County’s real property taxes on the condition the landowner pay the County \$1 per year in lieu of exempted taxes.
 - The facility owner will be exempt from paying 100 percent of the County’s personal property taxes on the condition the facility owner pay the County \$1 per year in lieu of exempted taxes.
- Years 11 - 20:
 - The landowner will be exempt from paying 25 percent of the County’s real property taxes on the condition the landowner pay the County \$1 per year in lieu of exempted taxes.
 - The facility owner will be exempt from paying 50 percent of the County’s personal property taxes on the condition the facility owner pay the County \$1 per year in lieu of exempted taxes.

As mentioned above, OCS has indicated that an amendment will be filed to change the terms of the PILOT to match the terms of CR33-2023, CR35-2023, and CR36-2023. The new terms will be as follows:

If less than 50 percent of the energy generated is subscribed to customers located in Howard County:

| Years | Personal Property Taxes | Real Property Taxes |
|--------------|--------------------------------|----------------------------|
| 1 - 10 | 75 percent | 37.5 percent |
| 11 - 20 | 25 percent | 12.5 percent |

If more than 50 percent of the energy generated is subscribed to customers located in Howard County:

| Years | Personal Property Taxes | Real Property Taxes |
|---------|-------------------------|---------------------|
| 1 - 10 | 100 percent | 50 percent |
| 11 - 20 | 50 percent | 25 percent |

The facility owner is required to make a Payment in Lieu of Taxes to the County in the amount of one dollar in each scenario presented above.

The PILOT would be in effect until the earlier to occur of:

- The expiration of the agreement
- The date the landowners cease to be the fee simple owner of the property
- The date the facility owner ceases operation of the project

Other Comments:

Community Power Group will be the facility owner of a solar project that already has an approved County PILOT agreement (CR143-2021). This project is still in the development phase and the PILOT was anticipated to be submitted for approval in February 2023. See **Attachment B** for a comprehensive list of Community Solar or Aggregate Net Metering solar projects with proposed or approved PILOT agreements to date.

Per the lease agreement between the facility owner and the landowner, any increase in real property taxes as a result of the solar project will be paid by the facility owner.

Per the OCS the State sets aside community solar program capacity for low to moderate income consumers, therefore OCS has not factored customer affordability into the decision to offer a PILOT.

Per the facility owner, they will decommission the property and return it to its original state at the end of the project and a surety bond will be held by the County to ensure this happens.

Existing tax incentives for the development and operation of solar facilities include:

- A 50 percent reduction of the assessed value of machinery or equipment used to generate electricity for sale that is subject to County property tax, § 7-237(b) of the Maryland Tax-Property Article
- A Federal Business Energy Investment Tax Credit that is currently equivalent to 30 percent of the tax basis of a solar project

Our Office has reviewed PILOT agreement terms, including a project where Community Power Group was the facility owner, associated with other solar projects in Maryland. We found that a common requirement in these agreements was for PILOT payments to be made by the facility

owner at a specified amount per megawatt (MW) of energy produced each year. For example, several PILOT agreements in Washington County required facility owners to make a \$6,000 or \$6,500 payment per MW of energy produced each year in lieu of their assessed Real and Personal Property taxes. Also, the Community Power Group had a PILOT agreement approved in Wicomico County for a project serving the County's energy needs that required them to make a \$5,000 payment per MW of energy produced each year in lieu of their assessed Personal Property taxes.

**Attachment A
Potential Abatement Scenarios**

Based on the terms of the pre-filed legislation:

| Years | Personal Property Taxes (1) | Real Property Taxes (2) | Total Taxes |
|--------------|------------------------------------|--------------------------------|--------------------|
| 1 - 10 | \$ 333,993 | \$ 6,231 | \$ 340,224 |
| 11 - 20 | 97,621 | 3,326 | \$ 100,947 |
| Total | \$ 431,614 | \$ 9,557 | \$ 441,171 |

Based on terms of the pending amendment identified by OCS:

Assuming the energy utilized in Howard County is less than 50 percent

| Years | Personal Property Taxes (1) | Real Property Taxes (2) | Total Taxes |
|--------------|------------------------------------|--------------------------------|--------------------|
| 1 - 10 | \$ 250,494 | \$ 4,674 | \$ 255,168 |
| 11 - 20 | 48,811 | 1,663 | \$ 50,474 |
| Total | \$ 299,305 | \$ 6,337 | \$ 305,642 |

Assuming the energy utilized in Howard County is greater than 50 percent

| Years | Personal Property Taxes (1) | Real Property Taxes (2) | Total Taxes |
|--------------|------------------------------------|--------------------------------|--------------------|
| 1 - 10 | \$ 333,993 | \$ 6,231 | \$ 340,224 |
| 11 - 20 | 97,621 | 3,326 | \$ 100,947 |
| Total | \$ 431,614 | \$ 9,557 | \$ 441,171 |

(1)Source: Auditor estimates using assessment inputs from the project’s financial projections.

(2)Source: The State of Maryland’s Department of Assessments and Taxation (SDAT) indicated that real property where solar arrays are developed, and no agricultural use is maintained, will be assessed at a rate of \$20,000 per acre. These estimates are based on \$20,000 per acre, with 2 percent appreciation every three years.

Attachment B
List of County Solar Projects
With Proposed or Approved PILOT Agreements

| Property Tax Abatements Estimated | | | | | | | |
|--|----------------|------------------------|----------------------------------|-------------------------------|-------------------------------|---------------------------------|-----------------------------|
| Scenario #1: More than 50% of energy sold in County | | | | | | | |
| Facility Owner | Project Name | Project Type | Project Status | Real Property Tax Abatement | | Personal Property Tax Abatement | |
| | | | | Year 1 - 10 (50% Abatement) | Year 11- 20 (25% Abatement) | Year 1 - 10 (100% Abatement) | Year 11- 20 (50% Abatement) |
| Chaberton (CR140-2021) | Friendship | Community Solar | Operational by Feb 2023 | 59,109 | 31,550 | 390,900 | 118,802 |
| Chaberton (CR141-2021) | Friendship | Aggregate Net Metering | Operational by Feb 2023 | 59,109 | 31,550 | 319,825 | 97,202 |
| Chaberton (CR33-2023) | Lime Kiln | Community Solar | Pending legislation | 15,579 | 8,316 | 356,334 | 108,298 |
| Chaberton (CR35-2023) | Catherine CS | Community Solar | Pending legislation | 8,309 | 4,435 | 392,219 | 119,204 |
| Chaberton (CR36-2023) | Catherine ANEM | Aggregate Net Metering | Pending legislation | 8,309 | 4,435 | 78,104 | 23,738 |
| Community Power(CR143-2021) | Ten Oaks | Aggregate Net Metering | In development | 21,187 | 11,309 | 348,239 | 112,160 |
| Community Power (CR34-2023) | Roxbury | Community Solar | Pending legislation | 6,231 | 3,326 | 333,993 | 97,621 |
| Power52 (CR11-2018) | Nixon's Farm | Aggregate Net Metering | Operational | 11,276 | 93,179 | N/A | N/A |
| Power52 (CR142-2021) | Nixon's Farm | Aggregate Net Metering | Operational (PILOT not executed) | N/A | N/A | 165,767 | 53,390 |
| TOTAL | | | | 189,109 | 188,100 | 2,385,381 | 730,415 |
| Scenario #2: Less than 50% of energy sold in County | | | | | | | |
| Facility Owner | Project Name | Project Type | Project Status | Real Property Tax Abatement | | Personal Property Tax Abatement | |
| | | | | Year 1 - 10 (37.5% Abatement) | Year 11- 20 (12.5% Abatement) | Year 1 - 10 (75% Abatement) | Year 11- 20 (25% Abatement) |
| Chaberton (CR140-2021) | Friendship | Community Solar | Operational by Feb 2023 | 44,332 | 15,775 | 293,175 | 59,401 |
| Chaberton (CR141-2021) | Friendship | Aggregate Net Metering | Operational by Feb 2023 | 44,332 | 15,775 | 239,869 | 48,601 |
| Chaberton (CR33-2023) | Lime Kiln | Community Solar | Pending legislation | 11,684 | 4,158 | 267,250 | 54,149 |
| Chaberton (CR35-2023) | Catherine CS | Community Solar | Pending legislation | 6,231 | 2,217 | 294,164 | 59,602 |
| Chaberton (CR36-2023) | Catherine ANEM | Aggregate Net Metering | Pending legislation | 6,231 | 2,217 | 58,578 | 11,869 |
| Community Power(CR143-2021) | Ten Oaks | Aggregate Net Metering | In development | 15,890 | 5,655 | 261,179 | 56,080 |
| Community Power (CR34-2023) | Roxbury | Community Solar | Pending legislation | 4,674 | 1,663 | 250,495 | 48,811 |
| TOTAL | | | | 133,374 | 47,460 | 1,664,710 | 338,513 |

| Property Tax Abatements Granted | | | | | | | | |
|--|--------------|------------------------|----------------|-----------------------------|----------------------------|-------------------------------|---------------------------------|-----------------------------|
| Facility Owner | Project Name | Project Type | Project Status | Real Property Tax Abatement | | | Personal Property Tax Abatement | |
| | | | | Year 1 - 7 (100% Abatement) | Year 8- 14 (30% Abatement) | Years 15 - 50 (20% Abatement) | Year 1 - 10 (100% Abatement) | Year 11- 20 (50% Abatement) |
| Power52 (CR11-2018) | Nixon's Farm | Aggregate Net Metering | Operational | 221,526 | 23,075 | - | N/A | N/A |

1 If less than 50% of energy sold is in the County, the PILOT agreement calls for a real property abatement of 75% in years 1 - 10 and 25% in years 11 - 20; if more than 50% YR 1 - 10 is 100% and YR 11 - 20 is 50%

2 PILOT agreement does not contain a provision for percentage of subscribers located in Howard County

3 PILOT agreement allows for 30% abatement in years 8 - 14 and 20% abatement in years 15 - 20, PILOT is currently in the 9th year

4 \$11,276 represents the payment for Year 10