

RESOLUTION THAT AN ACTION TO ISSUE A  
SPECIAL USE PERMIT FOR A PROPOSED TIER 3  
SOLAR ENERGY SYSTEM WILL NOT HAVE A  
SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT

WHEREAS, pursuant to Town of Tully Local Law No. 1 of 2020, known as the Solar Energy System Law (the “Town Solar Law”), Tier 3 Solar Energy Systems are permitted within all zoning districts through the issuance of a Special Use Permit by the Town Board, following review of the application for completeness by the Code Enforcement Officer (“CEO”), referral to the County Planning Department pursuant to General Municipal Law § 239-m, review of the application and site plan by the Town Planning Board and delivery of an advisory report (“Advisory Report”) to the Town Board by that body, and after holding a public hearing on the application; and

WHEREAS, NB Development, LLC (the “Applicant”) submitted an application (the “Application”) for a Special Use Permit for a Tier 3 Solar Energy System known as the “Drumm Solar System” (“Drumm” or the “Project”); and

WHEREAS, Drumm is an approximately five-megawatt (“MW”) solar photovoltaic facility to be built on an approximately 35 acre portion of an approximately 61 acre parcel owned by Drumm Farms LLC, identified as Tax Parcel ID: 115-02-03.0, located at 340 Route 11 South, Tully, New York (the “Site”); and

WHEREAS, the scope of the Project includes, in addition to installation of a ground-mounted solar photovoltaic energy production system, clearing and thinning of existing woodland, construction of a new gravel access road, and construction of a stormwater management system; and

WHEREAS, the Application was determined to be complete by the CEO, was referred by the Town Board to the County Planning Department pursuant to General Municipal Law § 239-m, and was duly referred to the Town Planning Board for review and submittal of an Advisory Report; and

WHEREAS, the Town Planning Board fully reviewed the Application over the course of several Special Meetings and delivered an Advisory Report recommending approval of the Application for Special Use Permit and advising that it found no significant adverse impacts relating to the Application; and

WHEREAS, issuance of a Special Use Permit requires review pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, following receipt of the complete Application, the Town Board declared itself to be lead agency for the SEQRA review of the Application in order to determine whether the Project may have a significant adverse environmental impact and require the preparation of an Environmental Impact Statement (the “Determination of Significance”); and

WHEREAS, to aid the Town Board in making its Determination of Significance, the Applicant has completed and submitted Part 1 of a Full Environmental Assessment Form (the "Full EAF") for the Project, a copy of which was presented to and reviewed by the Town Board, and submitted to the Town Planning Board for purposes of its advisory review; and

WHEREAS, the Town Board has examined the Application, Part 1 of the Full EAF, classified the Project as a Type 1 action under SEQRA, and coordinated review; and

WHEREAS, the Town Board having reviewed the proposed action, and the Town Planning Board's Advisory Report, and having completed a Full EAF Part 2, hereby makes the following findings and Determination of Significance with respect to the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF TULLY, as follows:

1. Based upon its independent examination of the Application, Part 1 of the Full EAF, and the Town Planning Board's Advisory Report, its completion of Part 2 of the Full EAF, and each member's general knowledge of the community generally and the specific area surrounding the proposed Facility, The Town Board makes the following SEQRA findings with respect to the Project:
  - A. It is the position of the Town Board that the Applicant has satisfactorily addressed the advisory comments of the County Planning Department in its 239-m recommendation report.
  - B. No potentially moderate to large impacts to the environment were identified by the Town Board on Part 2 of the Full EAF for the following reasons:
    - i. The Project conforms with the Town's zoning Code and is not inconsistent with its adopted local land use plan or with the character of the Town. Solar facilities are allowable uses by Special Use Permit;
    - ii. The Planning Board believes that the Project is appropriately sized and situated in a manner that will avoid or mitigate environmental impacts to the extent practicable;
    - iii. Stormwater impacts will be mitigated and controlled during construction through compliance with the State's SPDES General Permit for Construction Activities and a Stormwater Pollution Prevention Plan ("SWPPP") prepared by the applicant's consulting engineer;
    - iv. While limited work within a wetland may be necessary, it will be limited to minor non-mechanized overstory clearing and installation of driven support structures for solar panels and fencing that will not alter grade or require excavation. The Applicant will work with the U.S.

Army Corps. of Engineers to ensure that the project complies with applicable requirements of U.S. Army Corps. of Engineers Nationwide Permit NWP-51 which allows minor disturbances in federal wetlands for the construction of land-based renewable energy facilities including solar facilities;

- v. The Project will not affect surface or groundwater quality and will not impact the Cortland-Homer Preble Sole Source Aquifer, as there will be no discharges and only limited excavation for two mechanical pads for system electric gear and equipment;
- vi. Project components will be located outside of the designated floodway. Panel supports and chain link fence will be located within portions of the 100- and 500-year floodplain but the work will not result in topographical changes and the proposed structures will not impact flow or measurably increase flooding;
- vii. The Project will not result in loss or degradation of habitat used by threatened or endangered species;
- viii. While the Project is being built in a certified agricultural district on land that is currently farmed, the Facility has been designed to minimize disruption to existing and future agricultural activities. Construction of the Facility will not result in a permanent loss of agricultural land because there will be only limited excavation of agricultural soil and the facility infrastructure will be removed on decommissioning in accordance with a decommissioning plan approved by the Town. Therefore, future agricultural operations on the property are not impacted. Additionally, the Town Board finds that the Facility has been positioned to maximize the amount of land that will continue to be farmed by the current landowner, thereby avoiding fragmentation of farmed fields. The solar panel supports will be drilled or driven into the ground, thereby eliminating the need for footings which would cause more permanent disturbance;
- ix. Visual and aesthetic impacts from the Project will be limited for the following reasons: the Project will be located over 400 feet from the nearest residential structure to the north whose views of the array are screened by an existing tree line along the railroad right of way situated between the property and the Project. The Project is over 600 feet from the closest residential structures to the west whose views are also screened by an existing tree line which will be supplemented with additional screening per the approved landscape plan to further reduce view impacts. Such positioning will be selected following construction in consultation with Town officials; and the topography in the Project area and positioning of the solar arrays will minimize

views of the solar arrays from the adjoining roadway and from private residences. Additionally, the panels will be limited to a maximum of fifteen feet in height and will be positioned near the crest of a topographic slope, thereby minimizing the amount of panel surface area that will be visible to residences and Route 11;

- x. Project information has been uploaded to the online Cultural Resources Information System (CRIS) and OPRHP has indicated no archaeological survey for the project is necessary but requested a historical resources survey be performed to evaluate potential impacts on historic properties. A field survey was performed by the Applicant which indicates that no properties listed on, or eligible for listing on, the State or National Register of Historic Places (S/NRHP) within the established historic resources area of potential effect (APE) will be adversely impacted by the proposed project;
- xi. No traffic will be generated as a result of the Project. A permit for vehicular access to Route 11 will be obtained from NYSDOT;
- xii. Noise impacts from the Project will only be derived from enclosed pad-mounted mechanical equipment located more than 700 feet from the nearest residence and are not expected to exceed ambient noise levels at the property lines. Noise impacts during construction will be temporary and are adequately distanced from the nearest residential uses;
- xiii. Lighting will be limited to a single pole mounted fixture located at each of two equipment pads. Such fixtures will be mounted approximately twelve feet high and will be shielded to direct light downward. Such fixtures will be located more than 700 feet from any occupied structure, and therefore, light impacts from the Project will be insignificant; and
- xiv. There will be no air emissions from the Project.

C. The Board finds that the Applicant's requested waiver of the 100-foot setback and imposition of a 10-foot setback for each project, along the common boundary between the Applicant's developments resulting in a combined 20-foot setback between the Project and the Applicant's Potter South project immediately to the south will not create additional impacts and will reduce the combined footprint of the two projects, thereby further minimizing impacts to adjacent landowners. The area encompassing the requested setback is already disturbed by large overhead electrical transmission lines. The Board also finds that the Applicant's requested waiver of the 100-foot setback and imposition of a 20-foot setback along the Project's eastern boundary will not create additional impacts and will result in the reduction of panels at locations



closer to and more visible from Route 11, thereby minimizing visual impacts. A substantial vegetated buffer exists between the area encompassing the requested setback and adjacent residential dwellings which are more than 900 feet away. Both waivers have been endorsed by the Planning Board.

2. For all the foregoing reasons, the Town Board hereby issues a negative declaration for this Project.
3. The Clerk is hereby directed to complete the Negative Declaration section in Part 3 of the Full EAF and to attach this Resolution thereto, to cause copies of the completed Part 3 and this Resolution to be filed in the Town Office, and distributed to the Applicant, and to publish notice of a Type 1 negative declaration to be published in the Environmental Notice Bulletin maintained by NYSDEC.
4. This Resolution shall take effect immediately.

RESOLUTION THAT AN ACTION TO ISSUE A  
SPECIAL USE PERMIT FOR A PROPOSED TIER 3  
SOLAR ENERGY SYSTEM WILL NOT HAVE A  
SIGNIFICANT ADVERSE ENVIRONMENTAL IMPACT

WHEREAS, pursuant to Town of Tully Local Law No. 1 of 2020, known as the Solar Energy System Law (the “Town Solar Law”), Tier 3 Solar Energy Systems are permitted within all zoning districts through the issuance of a Special Use Permit by the Town Board, following review of the application for completeness by the Code Enforcement Officer (“CEO”), referral to the County Planning Department pursuant to General Municipal Law § 239-m, review of the application and site plan by the Town Planning Board and delivery of an advisory report (“Advisory Report”) to the Town Board by that body, and after holding a public hearing on the application; and

WHEREAS, NB Development, LLC (the “Applicant”) submitted an application (the “Application”) for a Special Use Permit for a Tier 3 Solar Energy System known as the “Potter North Solar System” (“Potter North” or the “Project”); and

WHEREAS, Potter North is an approximately five-megawatt (“MW”) solar photovoltaic facility to be built on an approximately 33 acre portion of an approximately 117 acre parcel owned by James A. and Cheryl Potter, identified as Tax Parcel ID: 114-01-06.1, located at 705 North Road, Tully, New York (the “Site”); and

WHEREAS, the scope of the Project includes, in addition to installation of a ground-mounted solar photovoltaic energy production system, clearing and thinning of existing woodland, construction of a new gravel access road, and construction of a stormwater management system; and

WHEREAS, the Application was determined to be complete by the CEO, was referred by the Town Board to the County Planning Department pursuant to General Municipal Law § 239-m, and was duly referred to the Town Planning Board for review and submittal of an Advisory Report; and

WHEREAS, the Town Planning Board fully reviewed the Application over the course of several Special Meetings and delivered an Advisory Report recommending approval of the Application for Special Use Permit and advising that it found no significant adverse impacts relating to the Application; and

WHEREAS, issuance of a Special Use Permit requires review pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, following receipt of the complete Application, the Town Board declared itself to be lead agency for the SEQRA review of the Application in order to determine whether the Project may have a significant adverse environmental impact and require the preparation of an Environmental Impact Statement (the “Determination of Significance”); and

WHEREAS, to aid the Town Board in making its Determination of Significance, the Applicant has completed and submitted Part 1 of a Full Environmental Assessment Form (the "Full EAF") for the Project, a copy of which was presented to and reviewed by the Town Board, and submitted to the Town Planning Board for purposes of its advisory review; and

WHEREAS, the Town Board has examined the Application, Part 1 of the Full EAF, classified the Project as a Type 1 action under SEQRA, and coordinated review; and

WHEREAS, the Town Board having reviewed the proposed action, and the Town Planning Board's Advisory Report, and having completed a Full EAF Part 2, hereby makes the following findings and Determination of Significance with respect to the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF TULLY, as follows:

1. Based upon its independent examination of the Application, Part 1 of the Full EAF, and the Town Planning Board's Advisory Report, its completion of Part 2 of the Full EAF, and each member's general knowledge of the community generally and the specific area surrounding the proposed Facility, The Town Board makes the following SEQRA findings with respect to the Project:
  - A. It is the position of the Town Board that the Applicant has satisfactorily addressed the advisory comments of the County Planning Department in its 239-m recommendation report.
  - B. No potentially moderate to large impacts to the environment were identified by the Town Board on Part 2 of the Full EAF for the following reasons:
    - i. The Project conforms with the Town's zoning Code and is not inconsistent with its adopted local land use plan or with the character of the Town. Solar facilities are allowable uses by Special Use Permit;
    - ii. The Planning Board believes that the Project is appropriately sized and situated in a manner that will avoid or mitigate environmental impacts to the extent practicable;
    - iii. Stormwater impacts will be mitigated and controlled during construction through compliance with the State's SPDES General Permit for Construction Activities and a Stormwater Pollution Prevention Plan ("SWPPP") prepared by the applicant's consulting engineer;
    - iv. Portions of the work, fence and panel installation as well as non-mechanized tree overstory trimming and clearing are located within federal wetland areas. The Applicant will work with the U.S. Army Corps. of Engineers to ensure that the project complies with applicable

requirements of Nationwide Permit NWP-51 which allows minor disturbances in federal wetlands for the construction of land-based renewable energy facilities including solar facilities. The Board notes that no construction may be conducted within the wetland until required approvals are in place;

- v. The Project will not affect surface or groundwater quality and will not impact the Cortland-Homer Preble Sole Source Aquifer, as there will be no discharges and only limited excavation for two mechanical pads for system electric gear and equipment;
- vi. Project components will be located outside of the designated floodway and outside the 100- and 500-year floodplain;
- vii. The Project will not result in loss or degradation of habitat used by threatened or endangered species;
- viii. While the Project is being built in a certified agricultural district on land that is currently farmed, the Facility has been designed to minimize disruption to existing and future agricultural activities. Construction of the Facility will not result in a permanent loss of agricultural land because there will be only limited excavation of agricultural soil and the facility infrastructure will be removed on decommissioning in accordance with a decommissioning plan approved by the Town. Therefore, future agricultural operations on the property are not impacted. Additionally, the Town Board finds that the Facility has been positioned to maximize the amount of land that will continue to be farmed by the current landowner, thereby avoiding fragmentation of farmed fields. The Project has been sited in a corner of the farm field leaving the balance of the parcel available for continued agricultural use. The solar panel supports will be drilled or driven into the ground, thereby eliminating the need for footings which would cause more permanent disturbance;
- ix. Visual and aesthetic impacts from the Project will be limited for the following reasons: the Project will be located over 300 feet from the nearest residence; the applicant's landscaping plan provides for the installation of vegetative screening at locations that will reduce view impacts from the adjoining roadway and the closest residences, and such positioning will be selected following construction in consultation with Town officials; and the topography in the Project area and positioning of the solar arrays will minimize views of the solar arrays from the adjoining roadway and from private residences. Additionally, the panels will be limited to a maximum of fifteen feet in height and will be positioned near the crest of a topographic slope,

thereby minimizing the amount of panel surface area that will be visible to residences and North Road;

- x. Project information has been uploaded to the online Cultural Resources Information System (CRIS) and OPRHP has indicated no archaeological survey for the project is necessary but requested a historical resources survey be performed to evaluate potential impacts on historic properties. A field survey was performed by the Applicant which indicates that no properties listed on, or eligible for listing on, the State or National Register of Historic Places (S/NRHP) within the established historic resources area of potential effect (APE) will be adversely impacted by the proposed project;
- xi. No traffic will be generated as a result of the Project. A permit for vehicular access to North Road (County Route 111) will be obtained from the County DOT;
- xii. Noise impacts from the Project will only be derived from enclosed pad-mounted mechanical equipment located more than 700 feet from the nearest residence and are not expected to exceed ambient noise levels at the property lines. Noise impacts during construction will be temporary and are adequately distanced from the nearest residential uses;
- xiii. Lighting will be limited to a single pole mounted fixture located at each of two equipment pads. Such fixtures will be mounted approximately twelve feet high and will be shielded to direct light downward. Such fixtures will be located more than 700 feet from any occupied structure, and therefore, light impacts from the Project will be insignificant; and
- xiv. There will be no air emissions from the Project.

- 2. For all the foregoing reasons, the Town Board hereby issues a negative declaration for this Project.
- 3. The Clerk is hereby directed to complete the Negative Declaration section in Part 3 of the Full EAF and to attach this Resolution thereto, to cause copies of the completed Part 3 and this Resolution to be filed in the Town Office, and distributed to the Applicant, and to publish notice of a Type 1 negative declaration to be published in the Environmental Notice Bulletin maintained by NYSDEC.
- 4. This Resolution shall take effect immediately.

RESOLUTION THAT AN ACTION TO ISSUE A  
SPECIAL USE PERMIT FOR A PROPOSED TIER 3  
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WHEREAS, pursuant to Town of Tully Local Law No. 1 of 2020, known as the Solar Energy System Law (the “Town Solar Law”), Tier 3 Solar Energy Systems are permitted within all zoning districts through the issuance of a Special Use Permit by the Town Board, following review of the application for completeness by the Code Enforcement Officer (“CEO”), referral to the County Planning Department pursuant to General Municipal Law § 239-m, review of the application and site plan by the Town Planning Board and delivery of an advisory report (“Advisory Report”) to the Town Board by that body, and after holding a public hearing on the application; and

WHEREAS, NB Development, LLC (the “Applicant”) submitted an application (the “Application”) for a Special Use Permit for a Tier 3 Solar Energy System known as the “Potter South Solar System” (“Potter South” or the “Project”); and

WHEREAS, Potter South is an approximately five-megawatt (“MW”) solar photovoltaic facility to be built on an approximately 32 acre portion of a 214 acre parcel owned by James A. and Cheryl Potter, identified as Tax Parcel ID: 115-02-14.0, located at 254 Route 11 South, Tully, New York (the “Site”); and

WHEREAS, the scope of the Project includes, in addition to installation of a ground-mounted solar photovoltaic energy production system, clearing and thinning of existing woodland, construction of a new gravel access road, and construction of a stormwater management system; and

WHEREAS, the Application was determined to be complete by the CEO, was referred by the Town Board to the County Planning Department pursuant to General Municipal Law § 239-m, and was duly referred to the Town Planning Board for review and submittal of an Advisory Report; and

WHEREAS, the Town Planning Board fully reviewed the Application over the course of several Special Meetings and delivered an Advisory Report recommending approval of the Application for Special Use Permit and advising that it found no significant adverse impacts relating to the Application; and

WHEREAS, issuance of a Special Use Permit requires review pursuant to the State Environmental Quality Review Act (“SEQRA”); and

WHEREAS, following receipt of the complete Application, the Town Board declared itself to be lead agency for the SEQRA review of the Application in order to determine whether the Project may have a significant adverse environmental impact and require the preparation of an Environmental Impact Statement (the “Determination of Significance”); and



WHEREAS, to aid the Town Board in making its Determination of Significance, the Applicant has completed and submitted Part 1 of a Full Environmental Assessment Form (the "Full EAF") for the Project, a copy of which was presented to and reviewed by the Town Board, and submitted to the Town Planning Board for purposes of its advisory review; and

WHEREAS, the Town Board has examined the Application, Part 1 of the Full EAF, classified the Project as a Type 1 action under SEQRA, and coordinated review; and

WHEREAS, the Town Board having reviewed the proposed action, and the Town Planning Board's Advisory Report, and having completed a Full EAF Part 2, hereby makes the following findings and Determination of Significance with respect to the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF TULLY, as follows:

1. Based upon its independent examination of the Application, Part 1 of the Full EAF, and the Town Planning Board's Advisory Report, its completion of Part 2 of the Full EAF, and each member's general knowledge of the community generally and the specific area surrounding the proposed Facility, The Town Board makes the following SEQRA findings with respect to the Potter South Project:
  - A. It is the position of the Town Board that the Applicant has satisfactorily addressed the advisory comments of the County Planning Department in its 239-m recommendation report.
  - B. No potentially moderate to large impacts to the environment were identified by the Town Board on Part 2 of the Full EAF for the following reasons:
    - i. The Project conforms with the Town's zoning Code and is not inconsistent with its adopted local land use plan or with the character of the Town. Solar facilities are allowable uses by Special Use Permit;
    - ii. The Planning Board believes that the Project is appropriately sized and situated in a manner that will avoid or mitigate environmental impacts to the extent practicable;
    - iii. Stormwater impacts will be mitigated and controlled during construction through compliance with the State's SPDES General Permit for Construction Activities and a Stormwater Pollution Prevention Plan ("SWPPP") prepared by the applicant's consulting engineer;
    - iv. While limited work within a wetland may be necessary, it will be limited to minor non-mechanized overstory clearing that will not alter grade or require excavation. The work will comply with applicable sections of U.S. Army Corps. of Engineers Nationwide Permit NWP-

51 which allows minor disturbances in federal wetlands for the construction of land-based renewable energy facilities including solar facilities;

- v. The Project will not affect surface or groundwater quality and will not impact the Cortland-Homer Preble Sole Source Aquifer, as there will be no discharges and only limited excavation for two mechanical pads for system electric gear and equipment;
- vi. Project components will be located outside of the designated floodway and the 100- and 500-year floodplain.;
- vii. The Project will not result in loss or degradation of habitat used by threatened or endangered species;
- viii. While the Project is being built in a certified agricultural district on land that is currently farmed, the Facility has been designed to minimize disruption to existing and future agricultural activities. Construction of the Facility will not result in a permanent loss of agricultural land because there will be only limited excavation of agricultural soil and the facility infrastructure will be removed on decommissioning in accordance with a decommissioning plan approved by the Town. Therefore, future agricultural operations on the property are not impacted. Additionally, the Town Board finds that the Facility has been positioned to maximize the amount of land that will continue to be farmed by the current landowner, thereby avoiding fragmentation of farmed fields. The solar panel supports will be drilled or driven into the ground, thereby eliminating the need for footings which would cause more permanent disturbance;
- ix. Visual and aesthetic impacts from the Project will be limited for the following reasons: the Project will be located over 600 feet from the nearest residence; the applicant's landscaping plan provides for the installation of vegetative screening at locations that will reduce view impacts from nearby residences, and such positioning will be selected following construction in consultation with Town officials; and the topography in the Project area and positioning of the solar arrays will minimize views of the solar arrays from the adjoining roadway and from private residences. Additionally, the panels will be limited to a maximum of fifteen feet in height and will be positioned near the crest of a topographic slope, thereby minimizing the amount of panel surface area that will be visible to residences and Route 11;
- x. Project information has been uploaded to the online Cultural Resources Information System (CRIS) and OPRHP has indicated no archaeological survey for the project is necessary but requested a

historical resources survey be performed to evaluate potential impacts on historic properties. A field survey was performed by the Applicant which indicates that no properties listed on, or eligible for listing on, the State or National Register of Historic Places (S/NRHP) within the established historic resources area of potential effect (APE) will be adversely impacted by the proposed project;

- xi. No traffic will be generated as a result of the Project. A permit for vehicular access to Route 11 will be obtained from NYSDOT;
- xii. Noise impacts from the Project will only be derived from enclosed pad-mounted mechanical equipment located more than 900 feet from the nearest residence and are not expected to exceed ambient noise levels at the property lines. Noise impacts during construction will be temporary and are adequately distanced from the nearest residential uses;
- xiii. Lighting will be limited to a single pole mounted fixture located at each of two equipment pads. Such fixtures will be mounted approximately twelve feet high and will be shielded to direct light downward. Such fixtures will be located more than 900 feet from any occupied structure, and therefore, light impacts from the Project will be insignificant; and
- xiv. There will be no air emissions from the Project.

C. The Board finds that the Applicant's requested waiver of the 100-foot setback and imposition of a 10-foot setback for each project along the common boundary between developments, resulting in a combined 20-foot setback between the Project and the Applicant's Drumm project immediately to the north will not create additional impacts and will reduce the combined footprint of the two projects, thereby further minimizing impacts to adjacent landowners. The area encompassing the requested setback is already disturbed by large overhead electrical transmission lines. The Board also finds that the Applicant's requested waiver of the 100-foot setback and imposition of a 20-foot setback along the remaining portion of the Project's northern property boundary will not create additional impacts and will result in the reduction of panels at locations more visible from Route 11, thereby minimizing visual impacts. A substantial vegetated buffer and existing overhead electrical transmission lines exist between the area encompassing the requested setback and adjacent residential dwellings which are more than 800 feet away. Both waivers have been endorsed by the Planning Board

2. For all the foregoing reasons, the Town Board hereby issues a negative declaration for this Project.
3. The Clerk is hereby directed to complete the Negative Declaration section in Part 3 of the Full EAF and to attach this Resolution thereto, to cause copies of the completed Part 3 and this Resolution to be filed in the Town Office, and distributed to the Applicant, and to publish notice of a Type 1 negative declaration to be published in the Environmental Notice Bulletin maintained by NYSDEC.
4. This Resolution shall take effect immediately.

## **Town of Tully Solar Energy System PILOT Law**

### **§1. Title**

This Local Law may be cited as the “Solar Energy System Pilot Law of the Town of Tully, County of Onondaga, New York.

### **§2. Purpose**

This Local Law is adopted to ensure that the benefits of the community’s solar energy resource are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-taxes (PILOT), granting reduced costs to system developers and energy consumers, and providing a revenue stream to the entire community.

### **§3. Authority**

This Local Law is adopted under the authority granted by

1. Article IX of the New York State Constitution, §2(c)(8),
2. New York Statute of Local Governments, § 10 (5),
3. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(8), and
4. New York Real Property Tax Law § 487(9).

### **§4. Definitions**

1. “Annual Payment” means the payment due under a PILOT Agreement entered into pursuant to Real Property Tax Law § 487(9).
2. “Annual Payment Date” means January 1<sup>st</sup> of each year .
3. “Capacity” means the manufacturer’s nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC.
4. “Owner” means the owner of the property on which a Solar Energy System is located or installed, or their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.
5. “Residential Solar Energy Systems” means a Solar Energy System with a nameplate generating capacity less than 50 kW AC in size, installed on the roof or the property of a residential dwelling (including multi-family dwellings), and designed to serve that dwelling.
6. “Solar Energy Equipment” means collectors, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware or equipment necessary to the process by which solar radiation is (i) collected, (ii) converted into another form of energy such as thermal, electrical, mechanical or chemical, (iii) stored, (iv) protected from unnecessary dissipation and (v) distributed. It does not include pipes, controls, insulation or other equipment which are part of the normal heating, cooling, or insulation system of a building. It does include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by New York law.
7. “Solar Energy System” means an arrangement or combination of Solar Energy Equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar energy and its conversion, storage, protection and distribution.

### **§5. PILOT Required**

1. The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the Town consistent with the terms of this Local Law, except for

a) Residential Solar Energy Systems

b) Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law Section 487(4).

2. The Lessee or licensee of any owner of a property required to enter into a PILOT Agreement by this section, which owns or controls the Solar Energy System, may enter into the PILOT Agreement on behalf of the owner of the property.

3. Upon receipt of any notification from an owner or other person of intent to install a Solar Energy System, the Town Supervisor shall immediately, but in no case more than sixty days after receipt of the notification, notify the owner or other person of the mandatory requirement for a PILOT Agreement pursuant to the terms of this Local Law.

4. Nothing in this Local Law shall exempt any requirement for compliance with state and local codes for the installation of any solar energy equipment or a solar energy system, or authorize the installation of any solar energy equipment or a solar energy system. All solar energy systems must file a Real Property Tax Exemption application pursuant to Real Property Tax Law Section 487 to receive a tax exemption.

5. Reasonable expenses incurred by the Town in negotiating a PILOT Agreement, including professional and or consultant fees, shall be reimbursed to the Town by the Owner.

#### **Section 6. Contents of PILOT Agreements**

1. Each PILOT Agreement entered into shall include

a) Name and contact information of the Owner or other party authorized to act upon behalf of the Owner of the Solar Energy System.

b) The SBL number for each parcel or portion of a parcel on which the Solar Energy System will be located.

c) A requirement for fifteen successive annual payments, to be paid commencing on the first Annual Payment Date after the effective date of the Real Property Tax Exemption granted pursuant to Real Property Tax Law Section 487.

d) The Capacity of the Solar Energy System, and that if the Capacity is increased or increased as a result of a system upgrade, replacement, partial removal or retirement of Solar Energy Equipment, the annual payments shall be increased or decreased on a pro rata basis for the remaining years of the Agreement.



e) That the parties agree that under the authority of Real Property Tax Law § 487 the Solar Energy System shall be considered exempt from real property taxes for the fifteen-year life of the PILOT Agreement.

f) That the PILOT Agreement may not be assigned without the prior written consent of the Town, which consent may not be unreasonably withheld if the Assignee has agreed in writing to accept all obligations of the Owner, except that the Owner may, with advance written notice to the Town but without prior consent, assign its payment obligations under the PILOT Agreement to an affiliate of the Owner or to any party who has provided or is providing financing to the Owner for or related to the Solar Energy System, and has agreed in writing to accept all payment obligations of the Owner.

g) That a Notice of this Agreement may be recorded by the Owner at its expense, and that the Town shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.

h) That the Annual Payment shall be

i) The Pilot payment shall be determined on a case by case basis.

i) That the Annual Payment shall escalate a percentage each year, starting with the second Annual Payment, determined on a case by case basis.

j. That if the Annual Payment is not paid when due, that upon failure to cure within thirty days, the Town may cancel the PILOT Agreement without notice to the Owner, and the Solar Energy System shall thereafter be subject to taxation at its full assessed value.

#### **§7. Severability**

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

#### **§8. Effective Date**

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law, and shall apply to all solar energy systems constructed.