

ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY

RESOLUTION

A regular meeting of the Erie County Industrial Development Agency was convened on Wednesday, September 22, 2021, at 12:00 p.m.

The following resolution was duly offered and seconded, to wit:

RESOLUTION OF THE ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (THE “AGENCY”) APPROVING AN OFF-SITE COMMERCIAL SOLAR PHOTOVOLTAIC POLICY THEREBY PERMITTING THE AGENCY TO PROVIDE FINANCIAL ASSISTANCE TO OFF-SITE COMMERCIAL SOLAR PHOTOVOLTAIC PROJECTS

WHEREAS, by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 293 of the Laws of 1970 of the State of New York, as amended (collectively, the “Act”), the ERIE COUNTY INDUSTRIAL DEVELOPMENT AGENCY (the “Agency”) was created with the authority and power to own, lease and sell property for the purpose of, among other things, acquiring, constructing and equipping civic, industrial, manufacturing, commercial and other facilities as authorized by the Act; and

WHEREAS, in 2021, a new subsection 21 was added to Section 854 of the New York General Municipal Law (the “GML”) specifically defining the term “Renewable Energy Project”, and amendments to subsection (4) of Section 854 of the GML were also made to include a Renewable Energy Project as a Project, as so therein defined, eligible to receive Financial Assistance; and

WHEREAS, to enable the Agency to facilitate and encourage responsible solar development within Erie County in an effort to support the statewide goal of achieving 70% renewable electricity production by 2030, and to assist the Agency in its considerations with respect to providing Financial Assistance to a Renewable Energy Project, Agency staff developed, and the Agency’s Policy Committee, on August 5, 2021, approved, an “Off-Site Commercial Solar Photovoltaic Policy” (the “Solar Policy”) as attached hereto as Exhibit A; and

WHEREAS, the Solar Policy provides for the provision of Financial Assistance for off-site solar projects that provide renewable energy benefits to residential and commercial customers and specifically confirms that eligible Solar Policy projects shall be permitted to make payments in lieu of taxes on a dollar per megawatt basis, that eligible Solar Policy projects shall be exempt from state and local sales taxes on eligible costs, and that eligible Solar Policy projects shall be exempt from the payment of mortgage recording tax; and

WHEREAS, the Agency’s Policy Committee has unanimously recommended that the Agency consider for adoption this Solar Policy; and

WHEREAS, the Agency is required by GML Section 874(4) to establish general guidelines by which Financial Assistance is to be conferred by the Agency to prospective applicants, such policy guidelines being memorialized in the Countywide Industrial Development Agency Uniform Tax Exemption Policy (the “UTEP”); and

WHEREAS, pursuant to and in accordance with GML Section 874(4), the Agency desires to adopt and approve the Solar Policy, and to ultimately amend the UTEP as related thereto.

NOW, THEREFORE, BE IT RESOLVED by the members of the Agency as follows:

Section 1. The Agency hereby approves and adopts the proposed Solar Policy attached hereto as Exhibit A.

Section 2. The Agency hereby authorizes Agency staff to initiate procedures to amend the UTEP as contemplated within this Resolution, the Act and the Solar Policy.

Section 3. The officers, employees and agents of the Agency are hereby authorized and directed for and in the name and on behalf of the Agency to do all acts and things required as may be necessary or, in the opinion of the officer, employee or agent acting, desirable and proper to effect the purposes of the foregoing resolutions and to cause compliance by the Agency with the Act.

Section 4. This resolution shall take effect immediately.

Dated: September 22, 2021

EXHIBIT A

Off-Site Commercial Solar Photovoltaic Policy



August 25, 2021

Off-Site Commercial Solar Photovoltaic Policy

Purpose

The Erie County Industrial Development Agency (ECIDA), in response to 2021 amendments to the New York IDA Law that specifically permits the ECIDA to provide financial assistance to renewable energy projects, desires to adopt an off-site commercial solar photovoltaic policy with respect to community solar projects.¹ The ECIDA's definition of community solar projects follows the guidance and definition as provided by the New York State Energy and Research Development Authority. This solar policy is intended to encourage responsible solar development within Erie County in an effort to support the statewide goal of achieving 70% renewable electricity production by 2030.

Policy

The ECIDA Off-Site Commercial Solar Photovoltaic Policy (Solar Policy) provides for the provision of financial assistance for off-site solar projects that provide renewable energy benefits to residential and commercial customers. Off-site Commercial solar projects approved under this Solar Policy shall be eligible for the following incentives:

Property Tax – In lieu of making real estate tax payments on the increased value resulting from solar system improvements, such improvements are eligible for an ECIDA payment in lieu of taxes (PILOT). PILOT payments will range from \$4,500 to \$5,500 per megawatt (MW) of the facility's nameplate capacity, with a 2% increase each year for a maximum term of 25 years. The length of term and dollar amount of PILOT payments will be determined on a project-by-project basis at the discretion of the ECIDA Board. PILOT payments will be distributed to the affected taxing jurisdictions based on their pro-rata share of the non-abated local tax payment.

¹ Off-site solar refers to a solar system installed at an off-site location different from the end user's property, such that the electricity so produced is shared by more than one property. This is in contrast to on-site solar, which refers to a solar system installed directly on the end user's property whose electricity is only used for operations on that property. Although this policy would not preclude the Agency from providing financial assistance to an on-site solar system, the aforementioned 2021 amendments allowing an Industrial Development Agency to provide financial assistance to renewable energy projects will primarily impact off-site solar projects. The term "Community Solar Project" typically refers to the New York State Public Service Commission off-site solar system project capped at 5MW, being the maximum rate capacity of a solar system project that can participate in and receive benefits for construction of such a solar system under New York's clean energy program.



If the host community has opted out of the renewable energy exemption program provided for under Section 487 for the New York State Real Property Tax law, the ECIDA will not entertain an application for financial assistance under the Solar Policy for a PILOT unless the host community requests or otherwise consents to a PILOT under the terms of this Solar Policy.

Sales Tax – Exemption from state and local sales tax on eligible project costs as outlined in the ECIDA’s standard policies and procedures.

Mortgage Recording Tax – Exemption from the mortgage recording tax as outlined in the ECIDA’s standard policies and procedures.

Requirements – Projects must meet all the requirements as defined by New York State Law and comply with all the ECIDA standard policies, project requirements and agreements. In addition, projects considered under this policy must meet the following additional requirements:

- 1) Project applicants must provide evidence of a negotiated Host Community Agreement with the municipality in which the project is located, or written evidence of the municipality’s determination not requiring, or deferring, same.
- 2) Financial assistance shall not be provided until project applicants provide evidence that they capitalized into a decommissioning fund or provided a bond to the satisfaction of the local municipality or Erie County sufficient to remove the solar arrays and associated site improvements at the end of the project without cost to the local community.
- 3) If a project is located on active agricultural lands, defined as a property that is receiving an Agricultural Property Tax Exemption through the NYS Tax Department form RP-305, project applicants must provide (i) confirmation from Erie County that the loss of any agricultural lands from operation of the Project is minimized due to the location of the solar arrays at issue and the loss or failure to use areas that are or could be used as farmland is not anticipated to be significant, and either (ii) evidence of a negotiated Host Community Agreement with Erie County which will be utilized by Erie County to promote and implement farmland protection initiatives consistent with the Erie County Agriculture and Farmland Protection Plan or (iii) or written approval of Erie County of other arrangements in support of agricultural initiatives as deemed satisfactory and appropriate in meeting the goals of the county.
- 4) Project applicants shall have obtained all local municipal approvals and evidence of compliance with the New York State Environmental Quality Review Act.

Adopted: September 22, 2021

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

I, the undersigned Secretary of the Erie County Industrial Development Agency, DO HEREBY CERTIFY:

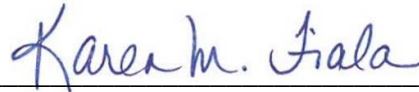
That I have compared the annexed extract of minutes of the meeting of the Erie County Industrial Development Agency (the "Agency"), including the resolution contained therein, held on September 22, 2021, with the original thereof on file in my office, and that the same is a true and correct copy of the proceedings of the Agency and of such resolution set forth therein and of the whole of said original insofar as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY, that all members of the Agency had due notice of said meeting, that the meeting was in all respects duly held and that, pursuant to Article 7 of the Public Officers Law (Open Meetings Law), said meeting was open to the general public, and that public notice of the time and place of said meeting was duly given in accordance with Article 7.

I FURTHER CERTIFY, that there was a quorum of the members of the Agency present 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 modified.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Agency this 22nd day of September, 2021.



Karen M. Fiala
Secretary

