

ZONING

138 Attachment 13

Town of Ballston

Host Community Agreement for Solar Energy Systems

THIS AGREEMENT FOR A HOST COMMUNITY AGREEMENT (the "Agreement"), effective as of _____, is by and between _____ (the "Owner"), with a principal place of business located at _____ and the TOWN OF BALLSTON, a municipal corporation duly established with a principal place of business located at 323 Charlton Road, Ballston, New York 12020 (the "Town", and collectively with the Owner, the "Parties").

RECITALS

WHEREAS, the Owner has submitted an application to build and operate a "Type III Community Solar Installation" as defined in the Town of Ballston Zoning Law (the "Project") with an expected combined nameplate capacity (the "Capacity") of approximately _____ Megawatts AC on portions of such parcel of land located within the Town of Ballston at _____ and currently identified as SBL # _____, (the "Property"); and

WHEREAS, the Town Zoning Law requires a Host Community Agreement with the Owner, under which the Owner (or any successor Owner of the Project) will make a contribution to the Town during the term of this Agreement; and

NOW THEREFORE, for and in consideration of the mutual covenants hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **Incorporation of Recitals.** All of the foregoing recital paragraphs set forth above in this Agreement are herein incorporated by reference as if set forth at length.
2. **Host Community Payments.** The Owner or its assignees commit to certain efforts that will support the operation of the Town as it relates to the Project, during the term of this Agreement, as follows.
 - a. Purpose. The payments made under this Agreement shall be used for the Town's Purchase of Development Rights (PDR) Program.
 - b. Donation: For the purposes stated herein the Owner will make a payment of _____ Thousand and 00/100 dollars (\$____,000.00).
 - c. Due Date of Payment: (1) The entire amount of the donation, _____ Thousand and 00/100 dollars (\$____,000.00), shall be paid prior to the Town of Ballston issuing a building permit for the Project; or (2) the Owner shall pay an annual fee to the Town in the amount of \$ _____, with the first payment being due within twenty (20) days from the date of execution of this HOST Agreement, and each subsequent anniversary date thereafter for a period of fifteen (15) years.
3. **Binding Effect.** This Agreement shall be binding upon the parties and their successors and assigns.

BALLSTON CODE

4. **Notice.** Any notice contemplated under this Agreement shall be deemed to have been given if the same shall be provided, in writing, to the other party, and shall be delivered personally, deposited in the United States Mail by registered or certified mail, return receipt requested, postage prepaid, or sent by any nationally recognized delivery service and addressed as set forth below:

If to the Town:

Town of Ballston Supervisor
323 Charlton Road
Ballston, New York 12020

If to the Owner:

5. **Severability.** If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction, such article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion so adjudged invalid, illegal or unenforceable shall be deemed separate, distinct and independent and the remainder of this Agreement shall be and remain in full force and effect and shall not be invalidated or rendered illegal or unenforceable or otherwise affected by such holding or adjudication..
6. **Effect of Agreement.** None of the parties to this Agreement shall use this Agreement or the terms hereof as an admission against another party during or subsequent to the term hereof, except in a legal proceeding seeking to enforce this Agreement or asserting breach thereof.
7. **Governing Law.** This Agreement will be made and interpreted in accordance with the laws of the State of New York. Both Parties each consent to the jurisdiction of the New York Courts in and for the County in which the Project is located regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Accordingly, any litigation arising hereunder shall be brought solely in such courts.
8. **Counterparts.** This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.
9. **Miscellaneous.** The parties do not intend to create, and nothing contained in this Agreement shall be construed as creating, a joint venture arrangement, or partnership between Town. Nothing in this Agreement expressed or implied, is intended or shall be construed to confer upon or give to any person, firm, corporation, or legal entity, other than the parties any rights, remedies, or other benefits under or by reason of this Agreement.

ZONING

***Signature page to Host Community Agreement for Solar Energy System
_____ & Town of Ballston***

Executed by the undersigned as of the day and year first written above, each of whom represents that it is fully and duly authorized to act on behalf of and bind its principals.

TOWN OF BALLSTON

By: _____

By: _____

Supervisor

[Remainder of page intentionally left blank]