



Town of Sanbornton
Office of the Board of Selectmen
P.O. Box 124
573 Sanborn Road
Sanbornton, New Hampshire 03269
603-286-8303
Email: TownAdministrator@sanborntonnh.org

PRESS RELEASE

For Immediate Release

Date: 7/31/2017

For More Information Call: Robb Jutton, Municipal Assessor (603) 729-8005

Sanbornton Board of Selectmen to Hold Public Hearing on Proposed PILOT Agreement

The Sanbornton Board of Selectmen will hold a public hearing on Wednesday, August 23rd at 5:30 pm in the Sanbornton Town Office Meeting Room at 573 Sanborn Road with the purpose of discussing a proposal for a Payment In Lieu Of Taxes (PILOT) Agreement between the Town of Sanbornton and NhSolarGarden.Com, LLC pursuant to NH RSA 72:74. In the event attendance exceeds the 33-person capacity of the Town Office Meeting Room, the meeting will be relocated to the Old Town Hall located at 19 Meeting House Hill Rd.

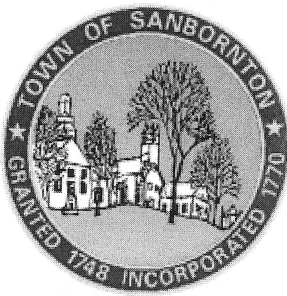
NhSolarGarden.com, LLC is proposing installation of multiple solar energy electrical generation sites on property at Guinta Drive (off of Tower Hill Road). The proposed PILOT agreement is available for inspection at the Sanbornton Town Offices at 573 Sanborn Road, Sanbornton, NH or on the Town of Sanbornton's website at www.sanborntonnh.org.

Review and approval of this project involves multiple steps:

- Step 1: PILOT Agreement
- Step 2: Pre-application review with Planning Board
- Step 3a: Site Plan Review with Planning Board
- Step 3b: Variances/Special Exceptions (if necessary)
- Step 4: Final Planning Board Review & Approval
- Step 5: Construction & Zoning Compliance Permits

This hearing concerns the PILOT Agreement only: Site Plans are not available for review at this time. If the PILOT Agreement is approved, site plans will be developed and made available to the public for review prior to site plan review with the Planning Board.

The PILOT Agreement is enabled by NH RSA 72:74. The spirit of the statute encourages and allows municipalities to offer alternative solutions to renewable energy generation facilities regarding taxes. The proposed PILOT agreement is a twenty year agreement and bases the tax revenue on projected net earnings from the sale of electrical energy for the first ten years of the



Town of Sanbornton
Office of the Board of Selectmen
P.O. Box 124
573 Sanborn Road
Sanbornton, New Hampshire 03269
603-286-8303
Email: TownAdministrator@sanborntonnh.org

project. The Selectmen and NhSolarGarden.Com, LLC will review the PILOT after ten years and recalculate the agreement, substituting the actual net earnings for the sale of electrical energy for the projected sales. Analysis will be conducted to see if the PILOT is fair to the Town and NhSolarGarden.Com, LLC. Following the analysis, the PILOT will be adjusted for the final 10 years of the life of the project.

The Sanbornton Board of Selectmen encourages citizens with an interest, concern or question regarding this PILOT Agreement to attend the Public Hearing on August 23rd, 2017 at 5:30 pm.

#####



**PAYMENT IN LIEU OF TAXES AGREEMENT BETWEEN
The Town of Sanbornton and NhSolarGarden.com, LLC**

This Payment in Lieu of Taxes (PILOT) Agreement (hereafter "Agreement") is made this ____ day of _____ 2017, under New Hampshire Revised Statutes Annotated (NHRSA) § 72:74, between the Town of Sanbornton, New Hampshire ("Town") and NhSolarGarden.com, LLC ("NhSolarGarden"), a New Hampshire limited liability company with a business address at 43 Holmes Court, Portsmouth, NH.

Background

NhSolarGarden seeks to develop a renewable solar power electric generating facility (the "Facility") to be located at Giunta Drive. NhSolarGarden expects the final installed AC Nameplate Capacity to be up to 25 megawatts (MW). For the purposes of this Agreement, the term "AC Nameplate Capacity" shall mean the sum of all of the nameplate capacities for the total solar inverters installed and operating at the Facility. Once the project has reached commercial operation, defined below, the parties will sign a letter amendment to this Agreement specifying the actual AC Nameplate Capacity of the Facility (if applicable).

The Facility will be built on land leased by the Giunta Family members, identified in the Belknap County Registry of Deeds Book 1091, Page 0806, Book 0955, Page 0279, Book 1033, Page 0691, Book 1364, Page 704, Book 955, Page 279, Book 1577, Page 642.

The Facility will be a "renewable generation facility", as defined in NHRSA §72:73 and NHRSA 374-F:3, V(f)(3). Under NHRSA §72:74, the owner of a renewable generation facility and the governing body of the municipality in which the facility is located may enter into a voluntary agreement to make payments in lieu of taxes.

NhSolarGarden and the Town desire to enter into such a PILOT agreement under NHRSA §72:74.

NOW THEREFORE, the parties hereto agree as follows:

Terms and Conditions

1. Payments in Lieu of Taxes. NhSolarGarden will make payments in lieu of taxes to the Town for each tax year (April 1 to March 31) during the term of this Agreement, in accordance with Sections 3 and 4 below. Pursuant to Paragraph ten (10) below, these PILOT payments will be in lieu of any and all ad valorem real estate taxes otherwise payable under NHRSA Chapter 72, including all town, county, and local school district taxes.

2. Term. Mindful of RSA 72:74, VI and VII, the parties have determined that a long-term agreement providing predictability of tax revenues and expenses would be advantageous to both the Town and NhSolarGarden. Accordingly, the term of this Agreement shall be 20 (twenty) years, beginning with a "transition tax year" described in Section 3 below and continuing thereafter for 19 additional years (the "Operating Term") as described in Section 4 below. After 10 years, a one-time review of the PILOT will occur and adjust, up or down, based on the same percentage of PILOT to revenue initially identified as 1.71% of gross revenues. If the Facility fails to achieve commercial operation by July 1, 2019, this Agreement shall be deemed void and of no effect. For the purposes of this Agreement, the term "commercial operation" shall be deemed to have occurred once (a) the solar power electric generating facility has been commissioned and accepted by Eversource and/or ISO-NE in accordance with applicable commissioning and inspection procedures (b) the Facility has been interconnected to the utility electric grid, and (c) NhSolarGarden has commenced the sale of energy from the Facility on a commercial (rather than test) basis to one or more purchasers. The date on which NhSolarGarden commences



energy sales on a commercial basis shall be deemed the "Commercial Operation Date." NhSolarGarden shall give the Town written notice of said Commercial Operation Date within seven (7) days after it occurs, together with a proposed letter amendment confirming the Facility's actual AC Nameplate Capacity.

3. Transition Tax Year Payment. The tax year in which the Facility achieves commercial operation, the Transition Tax Year, shall be the first tax year covered by this Agreement. Recognizing that construction of the Facility may not have commenced (or that if construction has commenced that the Facility is likely to be only partially constructed) as of April 1 of said Transition Tax Year, and that NhSolarGarden's revenues for said tax year may be non-existent or minimal, the PILOT payment for said Transition Tax Year will be based on the following formula, calculated as of the Commercial Operation Date:

$$(\text{AC Nameplate Capacity}) \times (\text{days left in Transition Tax Year}/365) \times (\text{first year PILOT rate}) \times 0.5$$

For example, if AC Nameplate Capacity is 25 MWs and commercial operation is reached on September 1, the Transition Tax Year payment would be calculated as:

$$(25 \times (211/365) \times \$2,500) \times .5 = \$18,065.06$$

The Transition Tax Year Payment will be made within ninety (90) days of the Commercial Operation Date.

4. PILOT Payments for 20-Year Operating Term. Subject to possible adjustments up or down under Section 2 or 5, annual PILOT payments to the Town for the 20 year operating shall begin at the rate of \$2,500 per megawatt of AC Nameplate Capacity for Community solar arrays, in the tax year that begins on April 1 following the commercial operation date.

If the Facility's actual Commercial Operation Date occurs after March 31, 2018, then the schedule of annual PILOT payments during the Operating Term covered by this Section 4 will be amended to reflect that the first year of the Operating Term will be the tax year following the tax year in which commercial operation begins.

5. Potential Adjustment of PILOT Payments.

(a) Increase in Capacity. In the event that some or all of the Facility's increased in the AC nameplate capacity during the term of the Agreement in such a way as to increase the Facility's total capacity, then PILOT payments beginning in the next tax year will be adjusted upwards. In addition, under Section 2, an adjustment based on the gross revenues will be evaluated in year 10.

(b) Reduction in Capacity: If the Facility's installed and operating capacity as of April 1 in any tax year is materially reduced (due to causes beyond NhSolarGarden's control) from the previous tax year due to: (i) damage caused by natural forces, (ii) operational restrictions caused by a change in law, regulation, ordinance, or industry management standards, (iii) decommissioning and removal of inverters, or (iv) the permanent cessation of the Facility's operations, then the PILOT payment will be adjusted downward based on the total actual installed and operating AC Nameplate Capacity after the reduction in capacity, or in the case of clause (iv) above, this Agreement will terminate.

6. Payment of Amounts Due. Other than the Construction Period payments and the Transition Tax Year Payment, which shall be made as set forth in Section 3 above, NhSolarGarden shall make the PILOT payments due hereunder for any given tax year in the Operating Term to the Town in two equal installments, at the Town Tax Collector's office, on July 1st and December 1st .



7. Non-Payment. Non-payment of any payment due the Town shall constitute a default. Notice of non-payment or any other default shall be provided to NhSolarGarden (and to NhSolarGarden's Lender, as further specified in Section 8 below), in the manner and at the address provided for Notices in Section 12 of this Agreement. NhSolarGarden shall have 30 days to cure the default after receiving such notice. In the event the condition causing the default is not cured within 30 days, the Town may commence an action to collect any non-payment under RSA Chapter 80, including but not limited to seeking specific performance of a non-monetary default (RSA 80:50) and/or proceeding against the real estate under RSA 80:58. It shall not be a defense to such a proceeding that NhSolarGarden is obligated under this Agreement to make payments in lieu of taxes rather than taxes.

8. Lender's Right to Cure. The Town shall send a copy of any notice of default to NhSolarGarden's Lender by certified mail at the same time such notice is sent to NhSolarGarden, and no such notice of default to NhSolarGarden shall be effective unless and until a copy of such notice has been delivered to NhSolarGarden's Lender. NhSolarGarden's Lender shall have the same time and rights to cure any default as NhSolarGarden, and the Town shall accept a cure by NhSolarGarden's Lender as if such cure had been made by NhSolarGarden. NhSolarGarden shall provide written notice to the Town as to the name and address of NhSolarGarden's Lender for such notices to be sent.

9. Other Taxes Not Covered. This Agreement covers only ad valorem real estate taxes payable under NHRSA Chapter 72. It does not include or cover other local, state, or federal taxes which may be payable on account of Facility revenues or activities, including the Land Use Change Tax, Timber Tax, State Utility Property Tax, Business Enterprise Tax, or Federal Income Tax. In the event that the DRA determines that an RSA 83F tax and value is required by that state for school taxes or any future reiteration of the same, and the DRA alters, changes, or otherwise deviates from the calculation agreed to in this PILOT Agreement and causes the Town of Sanbornton to incur a cost to the school district or counties greater than it otherwise would under this PILOT Agreement, the NhSolarGarden's, their successors and/or assigns shall hold the Town harmless to pay all excess costs as an additional payment in lieu of taxes to hold the Town harmless for this event.

10. Notices. Any notice to be provided under this Agreement shall be in writing and shall be deemed to have been given when delivered personally or by certified mail at the following addresses:

For the Town: Town Manager, Town of Sanbornton, NH PO Box 124, Sanbornton, NH 03269

For NhSolarGarden: NhSolarGarden.com, LLC 43 Holmes Ct, Portsmouth, NH 03801

For NhSolarGarden's Lender: (to be provided by NhSolarGarden)

In the event of a change in the address of any party listed above, the responsible signatory (NhSolarGarden in the case of itself, its Lender and/or its counsel) shall give the other party prompt written notice of such change of address, which shall be effective upon receipt.

11. Miscellaneous.

(a) This Agreement shall be construed and interpreted in accordance with the laws of the State of New Hampshire. In the event any term of this Agreement or the application of any such term shall be held invalid by any court having jurisdiction, the other terms of this Agreement and their application shall not be affected thereby and shall remain in full force and effect, provided that the remaining terms continue to preserve the essential economic terms of this Agreement.



(b) The terms and provisions contained in this Agreement constitute the final Agreement between the parties with respect to this Agreement and supersede all previous communications, representations or agreements, either verbal or written. No modification or amendment to this Agreement shall be valid unless it is in writing and signed by both parties hereto.

(c) Subject to the review and approval of the Town’s Board of Selectmen, which approval shall not be unreasonably withheld, NhSolarGarden shall have the right, in its sole discretion, to assign this Agreement to any bona fide purchaser, transferee, or assignee, provided that said purchaser, transferee or assignee has the financial, managerial, and technical capacity to construct and operate the Facility as contemplated by the parties hereto. All covenants, agreements, terms and conditions contained in this Agreement shall apply to and be binding upon the parties, their assigns and successors. NhSolarGarden shall provide written notice to the Town of any sale, transfer, or assignment not less than 30 days prior to such sale, transfer or assignment taking effect.

(d) Section titles or subject headings in this Agreement are provided for the purpose of reference and convenience only and are not intended to affect the meaning of the contents or scope of this Agreement.

(e) This Agreement may be executed in multiple counterparts, each of which shall be deemed an original instrument, but all of such counterparts together will constitute but one Agreement.

(f) Prior to the execution of this Agreement, the Selectmen of the Town held a duly called and noticed public hearing as required by RSA 72:74, I on the __ day of __, 2017; and after that public hearing, the Selectmen voted at a duly called and noticed public meeting to approve and execute this Agreement on the __ day of __, 2017.

Town of Sanbornton, New Hampshire

By: _____, Selectman

_____, Selectman

_____, Selectman

NhSolarGarden.com, LLC

By: _____
Andrew Kellar
Manager