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IN THE MATTER OF A
NOTICE OF PUBLIC HEARING

RE: 2022 UNIFORM TAX EXEMPTION POLICY

-----X

1 Washington Street
Hempstead, New York

December 7, 2022
9:30 a.m.

B E F O R E:

MICHAEL LODATO, Deputy Executive Director

FREDERICK E. PAROLA, CEO

Dolly Fevola,
Court Reporter

A P P E A R A N C E S :

TOWN OF HEMPSTEAD
INDUSTRIAL DEVELOPMENT AGENCY
350 Front Street
Hempstead, New York 11550

ALSO PRESENT:

VINCENT RANDAZZO

REGAN BUTLER

ALISON OFFERMAN CELENTANO

JAMAL SCOTT

GARY GENTLES

KATRINA KOVAC

MR. LODATO: Good morning. My name is Michael Lodato. I'm the Deputy Executive Director for the Town of Hempstead and I'm accompanied by Fred Parola who is the CEO of the IDA. We're here this morning for an amendment to our Uniform Tax Exemption Policy for the Town of Hempstead IDA. I will now read the Notice of Public Hearing into the record:

Notice is Hereby Given that a public hearing pursuant to Title 1 of Article 18-A of the New York State General Municipal Law will be held by the Town of Hempstead Industrial Development Agency on Wednesday, December 7, 2022 at 9:30 a.m., at Nathan L. Bennett Pavilion, 1 Washington Street, Hempstead, New York in connection with the amendment by the Agency of the Agency's Uniform Tax Exemption Policy, a copy of which is available

at the Agency's office, 350 Front Street, Room 234-A, Hempstead, New York 11550 and on the Agency's website at www.tohida.com.

MR. PAROLA: Thank you, Michael. Good morning. My name is Fred Parola. I'm the CEO of the Town of Hempstead IDA. As Mike indicated, I just wanted to give a brief introduction to those of you that are here and for our live streaming to put in perspective what we're doing here today.

The purpose, quite obviously, of this hearing is to update and conform our UTEP, which is the Uniform Tax Exempt Policy and guidelines that govern the IDA, and we want to conform and update the written policy of the IDA and guidelines with the actual procedures that we follow.

We're mandated to do this basically, according to our counsel,

by New York State law. All IDAs are doing the same approach as we are, updating their documentation and their UTEP, and the real reason is because, with time passing, as with all institutions, we tend to deviate from the written word, from the actual practice. Quite obviously, it's better to have the written word, which is on our website, conform to the practices that are currently in effect, quite simply put.

So basically, this is a draft. Our board -- and Mike and I don't vote -- our board of about seven members will read through the testimony that has been given today, as well as every document that has been presented. We've had a number of those from folks that are concerned with various aspects of what IDAs do, quite understandable, and that will go into the record and

then they will consider this document at some point, either in December, January or beyond, vote on an updated series of policy and guidelines for us.

The major change from this document to the last one that is now online is all illusions to public utilities and power plants has been deleted. So although IDAs can do those, our board is going to be looking very carefully, after we have a discussion with them, as to what we should be doing in this area.

I want to thank the Island Park Superintendent of Schools who has been very helpful in this, as well as Supervisor Clavin and Council Member D'Esposito with whom I have had extensive conversations understanding better the problems with respect to power plants and the impact of property taxes to the

residents of those communities of
Island Park and Oceanside and
elsewhere.

Interesting enough,
parenthetically, about 4 years ago
the powers that be that had the
Barrett's plant came to the IDA
because they wanted to entertain a
PILOT, a payment in lieu of taxes
benefit to them, and we, at that
time, refused to do so.

And the last comment I'd like
to make before we take testimony is
to point out that this IDA in the
Town of Hempstead seeks never to
reduce taxes from the existing level
of property tax that is full market
value. What does that mean? It
means that let's say a developer has
a property that pays property taxes
of \$100,000 and he's coming to the
IDA, he or she is coming to the IDA
for benefits, those three major
benefits are mortgage recording tax

reduction, sales tax reduction and the property tax reduction in payment in lieu of taxes. We would begin our PILOT at \$100,000. That would include, if it's in an incorporated area, that would include the incorporated area, the Village. It would include the school tax, as well as the general tax. I collectively made that \$100,000 in this example. So we would try to do \$100,000.

Our normal policy is a 10-year PILOT. What IDAs are -- on the state and especially in Long Island and in New York City -- are finding is that what individuals and residents are finding, and I wish we could give them benefits but we can't, we always get that complaint, but what we're finding is that the cost of doing business from steel to wood, you name it, just like in our homes and you go to the local

grocery store and you know how much more you're paying, it's so much more difficult to make a project work for them financially that we try to benefit them in the sales tax exemption and the PILOT payment in lieu of taxes.

So with that having been said, we would welcome any comments from those of you that are here.

MR. LODATO: Thank you. Mr. Parola. I would just like to say to the audience, if you have not, please sign up in front over here just so the stenographer can spell your name correctly for the minutes, et cetera. Thank you.

If you would like to speak, please come up to the podium, state your name and where you're from and you will be captured by the stenographer and the live stream. Thank you.

MR. RANDAZZO: Good morning.

Thank you so much. My name is
Vincent Randazzo. I'm the
Superintendent of the Island Park
Schools and first I'd like to thank
Mr. Parola for taking the time to
speak with me yesterday. I really
do appreciate that.

MR. PAROLA: Thank you.

MR. RANDAZZO: I'm also very
happy to see that the Town of
Hempstead IDA removed that portion
that speaks to PILOTS with
electrical generating facilities
from today's public hearing.

I think the first thing and
first point that I want to make is
to just be clear that the Island
Park Union Free School District
supports economic development within
the boundaries of the school
district, but what we want is for
developers to pay their fair share
of taxes because when they don't
that unjustly puts more financial

burden on our residents and I think it's been widely reported that our community has already taken, especially our school district has taken a very serious tax hit due to the LIPA tax settlement. So the last thing the community needs is to be burdened by additional finances that are related to certain economic development.

The reason I'm here today and the reason why I wrote the letter to you that I ask that you put on record, and I know that you're going to do that, is because on November 29th, the School District, in collaboration with the Island Park Village, held a community forum in which Equinor, one of the lease holders for the wind farm, held a public forum at our school so they can start to explain the Article VII process that they are currently under in the public service

commission review and explain to the community the scope of the project, et cetera.

At that point in time, one of their officials stood up when a resident asked a question about a PILOT agreement, and that person, their official stated that Equinor was seeking a 25-year PILOT on the project.

Now, why is that important to the Island Park School District and the Village of Island Park that's because the proposed substation that would connect the wind farm to the grid is proposed to be in Island Park as long as that Article VII process is approved.

And, again, I'm the Superintendent so my focus is predominantly on leadership, curriculum and instruction. And I don't expect that the IDA knows all of this information. I had to do

some research and there is some really important information that I'd like to share with you. And there is a document I will send to you.

As I was doing research, I stumbled upon this document and it's directly from NYSERDA, which is the New York State Energy Research and Development Authority, which is pushing forward the state's green energy initiatives and this document is called the New York Wind Energy Guide for Local Decision Makers. I'm going to reference a few pieces of this document that I'd ask that you consider moving forward.

Again, Mr. Parola, I'll be glad to e-mail this to you.

MR. PAROLA: Please.

MR. RANDAZZO: On page 5 under the subheading "Term," it states the following: Wind power lessees generally have terms of 20 to

40 years often with an option for extending the lease. A typical utility scale wind farm project has a useful life of 20 years. This is in NYSERDA's document. So the fact that Equinor would even be saying in public that they would be looking for a 25-year PILOT when NYSERDA, the governing body that's authorizing these wind farms here in New York is stating that the useful life is 20 years.

I would also like to bring your attention to page number 6 in the section labeled "Decommissioning." Lessees should include provisions for decommissioning the project at the end of its useful life, which means that this document already states that at the end of 20 years there is a very real possibility that that would be the end of the useful life of this wind farm; therefore, how could we even

consider anything close to 20 or
25 years.

And, finally, what I think is
the most important is found on page
number 7 with the subheading
"Taxes."

I'm sorry, I'm doing this on my
phone so I apologize.

"Taxes. Responsibility for
payment of property taxes should be
clearly specified in the lease. The
wind power project developer
generally assumes responsibility for
any increases in property taxes
associated with the wind power
project." And I could not find
anywhere in this document where it
speaks of payment in lieu of taxes.

So, Mr. Parola, as I said
yesterday, you know, we spoke over
the phone and there is one thing I
think is really important, and I
know you received a letter from the
Nassau County Council of School

Superintendents as well, which I'm a member of, and within that document it did say that we really do feel moving forward that we should have a seat at the table and, as I stated to you, the board members of the Island Park Union Free School District unanimously voted to pass a resolution to opt out of real property tax law for '87, which means that we're opting out of any of these green energy initiatives within the boundaries of our school district as a taxing jurisdiction.

That doesn't mean we don't want them here. What it means is that we've been burned before and we want to have a fair PILOT agreement if that's what's going to happen, right, but we obviously prefer that everyone pays their fair share of taxes, but if that's something that's going to help this project move forward, we need to be involved

in that. There's a legal responsibility to be opted out for us to be involved in that.

And just moving forward, just understanding that with the magnitude of some of these projects, it's really important that the School District and their officials are included within these conversations moving forward.

Thank you.

MR. PAROLA: Thank you. On the record, I've spoken to my chair of my board, Flo Girardi, and although we have been approached, there will be no further action on any of this until we have a conversation with you and a representative group perhaps, also the public officials in the town who have been very outspoken and helpful with respect to us formulating whether we should move forward or not move forward, so we will, as they say, be in touch

quite earnestly. Thank you.

MR. RANDAZZO: Thank you.

MR. SCOTT: Good morning. My name is Jamal Scott. I'm the Assistant Superintendent for Business and Operations for the Hempstead School District.

I've come to express my thoughts in reference to the IDA process. The current panel that came out for today's meeting in reference to the different terms, and you just spoke on the different terms, from 10 years on the average PILOT to 15 years, and I believe that's in this document in front of me, 10 to 15 years; however, over the past year, two years, I've been to hearings where there was possibilities of PILOTS being offered for 30 years and 40 years and I just want to confirm that going forward that's not the case.

Are you going to approve when

companies are making requests for a PILOT for 30 years? Are you going to stick to the 10 to 15-year? Is that a law, a policy? What I'm reading now, is that going to be in cement, basically, concrete, that you're not going to be able to go over 15 years or are you going to consider going to the 25 and the 30-year PILOT.

And if you do consider that, in the process of actually approving PILOTS and setting up the payments, is it possible that it could be revisited every 5 years?

As you know, for you to set a payment schedule for PILOTS 30 years out, a lot of economic changes happen during that time so I would think that some of the tax implications will change and the course will change so to keep something in place for even 15 years is a long time. If you're not going

to revisit it throughout the process
then I think it might be a little
off and I'm not sure if that is
already implemented in the process.

That's the first thing. The
second thing is, when we get the
PILOTS and we get the payments, is
there some type of calculation that
we could use in the School District
to determine the amount of taxes
that the school or the amount of the
PILOT that the school will receive
on the PILOT because when we get it,
we get the total amount of the PILOT
for the company. It's not broken
down into the School District
portion and the property portion so
we have to look at the prior year's
amount to determine what the current
year's amount is. And if it's a
first time, a first year, it's hard
to budget for that. So is there any
calculation that we can do on our
own to determine what the School

District is going to receive?

And the first question was, when you're doing a 15-year-out payment schedule, is there a way that the IDA can put in the terms of the contract with the company that you guys could revisit the payment schedule every 5 years to make adjustments and maybe put a capital adjustment if some type of market trend increases a certain amount and the PILOT, what the actual value of the property if it was on a regular tax schedule would have been going up because the value of the property has increased.

MR. PAROLA: Okay.

MR. SCOTT: I know it's a lot.

MR. PAROLA: It's a very good point. From a personal standpoint, I think I speak for Mike as well as staff goes, we feel that Hempstead has been abused -- I'll use that term -- by various jurisdictions.

The county IDA, I think we have 9 projects in Hempstead, most of them being housing as you're aware and that leads me to the comment that IDAs, even though this is a uniform policy and much of the reason why we're moving forward is so we deviate from the written word less. The key operative word there is that the board can deviate from the 10 or 15 years that is set forth in terms of PILOTS.

Having said that, former Assemblywoman initiated legislation about 6 years ago that requires the Village of Hempstead and the Village of Freeport that there be a review every 3 years of all existing PILOTS in those two villages only and that is because -- Freeport got lumped into it because I spoke to the mayor at the time. They did not have a problem but I guess because it was the two largest villages in her

district she included them both in the review. So we are mandated by state law -- it's in the General Municipal Law -- that in the case, again, of Hempstead and Freeport, that there be a review every 3 years. We look at the PILOT. We look at the impact, et cetera, et cetera.

To your other point, if I properly have -- Oh, so my feeling is we should not do any additional apartment buildings or rentals in the Village personally.

Now, again, I don't vote but I just think that the burden -- I see what's happening to the poor kids who are in temporary -- I mean all school districts have it tough and the job you do and the circumstances -- I have two superintendents here -- I don't know if you're a superintendent.

MR. SCOTT: Assistant

superintendent for business.

MR. PAROLA: Close enough. The job you do is amazing because the burden is so difficult. All the problems in the community, et cetera, et cetera, so I commend you for that.

Former assemblywoman and I was on the education committee for two years in that capacity and I stayed there because I thought it was the most important thing we as legislators do and you do God's work in my opinion.

The other aspect to what you were talking about in terms of the School District, when we set up a PILOT, whether it's 10 years or 15 years -- and the longer PILOTS are for apartment houses and the problem there is that we are following federal mandate. It's not a mandate but I should say we're following federal borrowing and

loaning processes because the Feds insure 90 percent of all mortgages and we follow them in terms of the length of the insurance for projects. This helps the developers. We don't have to do it but they make a compelling case to the board and the board, in many cases, does accept that argument. Perhaps we shouldn't. And I know it's getting more and more of a consideration by the board.

So when we do a PILOT, say it's 10 years, the only thing that we can do with assurance and part of the attractive aspect to a PILOT is not only the fact that they are getting a benefit but there is a definite understanding as to what the total amount of the PILOT would be; in your case, Village, School District and general tax county and town, et cetera. But because it has to be in the same percentage as it would be

if it was in the market place, a particular project, we can't pinpoint the exact amount you'll get every 10 years in each of the other 10 years in this example.

Having said that, it's pretty close. You might get a differentiation of a percentage here, a percentage-and-a-half there but pretty much you can guesstimate year to year where you're going to be relative to the other two. In this case for you, the other two taxing jurisdictions, general and Village, if that clarifies a little bit.

MR. SCOTT: It helps it a little bit; however, there's been like PILOTS being offered to certain lots in the Village where it's not generating any taxes at the moment. So I think one recently was -- I want to say a senior living project or maybe apartment village project

in the village downtown where right now that current property lot is not generating any type of -- not receiving any taxes on it at the time, the property taxes or school taxes. So now, there was a proposal of a building -- I believe it was approved -- to build apartment complexes on it. So there is no history to show what the payments are going to be --

MR. PAROLA: There should be.

MR. SCOTT: The breakdown of the payments as far as property and school, right, so we're just looking for budget purposes to try to determine that, how to determine the school, we can look at how we do with the houses and other commercial properties and we could try to figure it out but that takes a lot of work to do and we don't want to mis-project the amount of money that we should receive as far as when

we're doing the budget for budget purposes.

Also, when you mentioned it's reviewed every 3 years, it's great to know; however, when it's reviewed every 3 years, is there a provision in that policy that you guys can make an adjustment to the policy every 3 years, and is there a cap to that, and how do we know that it's being done. We trust to a certain extent. How do we know that it's being done and has there been any adjustments when you reviewed it over because the economy has been going up and down and so at any given moment I would believe that a PILOT reviewed after every 3 years there had to be some type of adjustment in the history since that policy was implemented, so is there any evidence to show that a PILOT has been adjusted after review or you just leave it as such?

MR. LODATO: Mr. Parola touched upon this a moment ago but to go backwards slightly, your question about breaking apart what the School district or, in some instances, the Village gets, et cetera, whatever your proportionate share is stays the same. So let's say your proportionate share is 20 percent of whatever that tax bill is, you're still going to get your 20 percent off of that number even though the number may be different than the tax number via the PILOT number.

In regards to the changes on the PILOTS, as Mr. Parola stated, we do have the law in place for Freeport and Hempstead where that has to be reviewed every 3 years. At the end of every year, we have a spreadsheet that shows us apples to apples what we get in the PILOT versus what the taxes would be if it were (inaudible) PILOT. On that

third year of that project being in place, we work with our partners on the Hempstead Village IDA or Freeport IDA board members -- Normally, to digress a little bit, We have a seven member board, however, we have Freeport and Hempstead members who are appointed by those jurisdictions, by those villages, and they sit with our board members. We work in conjunction with them to review what the taxes would be, what they are in the PILOT, what the figures are in the PILOT, excuse me, and then we see is there a dramatic swing as the tax rate change as where we have. There have not been any changes in the past few reviews that we've done both in the Village of Hempstead and Freeport because the swing was not wild enough in regards to where they would be and where they are, but we will obviously keep an eye on this

as the projects progress over the years and we have made adjustments in the past, in general, when a property is out of whack.

MR. PAROLA: And this is a fairly recent law so there not have been that many reviews yet. And as Mike said, none have really been out of whack in terms of the overall taxing.

Just to put it another way because it is confusing, so if this property that you're speaking to and general properties, whatever the percentage is, if they were in the full market place fully taxed, the School District is getting 60 and the Village is getting 30 percent and the general is 10 percent, if that comes out to 100, you will get the same percentage in the PILOT from the property as you would be getting if it was fully taxed without a payment in lieu of taxes

benefit.

MR. SCOTT: Okay. That's good.
Thank you.

MR. PAROLA: And, you know, if something comes up, we're right here. I mean we answer our phone. We get right back to you. We may not give the right answer all the time, which is frustrating, but we will get back to you. If you want to sit down, you've got specific questions, you want an answer on the phone, we really try to be transparent and be open as best we can because I know some of the stuff can be misconstrued in terms of what we're actually doing with economic development and the impact that it may have on the community.

I'm going to say one last thing about PILOTS, at least in this regard. In some of the jurisdictions, particularly not in Nassau, but in Suffolk County, as an

incentive to development, a number of the IDAs, one of them, cuts taxes 50 percent. Bang. They don't care about what, perhaps, should be generated. They're more inclined to favor whatever economic development is needed.

We are -- I'm going to repeat. I said this before. Our board is so sensitive to that, especially for villages and school districts. General, in the county and town portion, you know, it gets absurd. It's a macro, but we know the impact, especially on villages and on school districts, so we really do try to keep the level of taxes where it is and over a 10-year project, a 10-year PILOT, the taxes go up every year after the third year of where it's set because we figure the first 3 years they are in the development stage. They are building, et cetera, et cetera, so we give them

that time, but they are still being taxed, but it doesn't go up usually until the fourth year. And in that fourth year, if it's a vacant lot, we will give a large increase to reflect the fact that now you should have your building up, you should be functioning, now you should pay for taxes.

Thank you so much, Mr. Scott.
Thanks for your input very much.
Appreciate it.

MR. SCOTT: Thank you.

MR. LODATO: Would anyone else like to be heard?

MR. PAROLA: We'll leave it open a few minutes.

Just for the record, the assemblywoman who passed legislation was Earlene Hooper, the assemblywoman at the time.

MR. SCOTT: So one more last question. I notice that you mentioned earlier about the lending

of the developers, right, so a lot of times the developers say, well, in order for us to get money that we need to build or whatever, we need the PILOT to be as long as that loan because the lender is requesting that we have a payment.

I think you gotta look at who the lender is when they ask that question because that's not necessarily true. That is a clear fabrication. And that's a fact.

It's almost like if you correlate it to your home. When you purchase a home, the lender is not asking what your taxes are going to be 30 years out for a 30-year fixed mortgage. They look at what your taxes are now and if it goes up, that's on you, but that's not a requirement to get a PILOT for that long and they try to leverage that as developers to get a PILOT for 40 years. That's it.

MR. PAROLA: Let me just comment that Mike and I are both nodding because you're making your best case but Mamma didn't raise stupid boys here or women on our board so we look for that. Absolutely. Thank you.

MR. SCOTT: Thank you for that and I appreciate you guys. Have a Happy holiday.

MR. PAROLA: God bless. Merry Christmas. Happy holidays.

MR. LODATO: Ms. Reporter, Please mark all submitted documents as exhibits and attach to the transcript.

(Whereupon, Town Exhibits A through G were marked for identification.)

MR. LODATO: If no one else would like to speak, we are now observing it's 10:10 a.m. on December 7th, Wednesday. We will now close this UTEP Public Hearing

sine die. Thank you everyone for
attending and for your comments.

(Time noted: 10:11 a.m.)

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CERTIFICATION

I, DOLLY FEVOLA, a Notary Public in
and for the State of New York, do hereby certify:

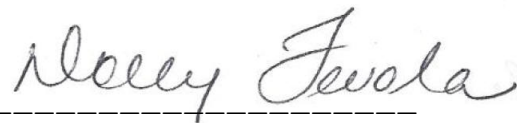
THAT the witness whose testimony is herein
before set forth, was duly sworn by me; and

THAT the within transcript is a true record
of the testimony given by said witness.

I further certify that I am not related,
either by blood or marriage, to any of the parties
to this action; and

THAT I am in no way interested in
the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 12th day of December, 2022.

A handwritten signature in cursive script, reading "Dolly Fevola", is written over a horizontal dashed line.

DOLLY FEVOLA

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3

New York Wind Energy Guide for Local Decision Makers:

Land Agreements



NEW YORK
STATE OF
OPPORTUNITY.

NYSERDA

To develop a wind project, developers must obtain legal rights to the land. A right can be in the form of a purchase, lease, or easement. The type of agreement depends on the infrastructure intended for the land, the developer's business model, and the type of arrangement acceptable to the landowner. The process of securing land rights for wind energy projects usually occurs early in the development stage and may begin with an option agreement (an exclusive right to conduct due diligence on the wind resource, property conditions, and energy market until the developer is ready to move forward with project development).

The most common land agreement for a wind energy project is a lease. Leases allow the developer to spread the payments over the life of the project to minimize upfront costs. And, since the wind project facilities occupy only a small portion of the land, landowners can continue existing land uses, while adding an additional revenue source with a wind energy lease.

It's common for a utility to require land ownership of property where a utility-owned substation will be located. Therefore, if the project includes construction of a new utility-owned substation, depending on the arrangement with the utility, either the developer or the utility will negotiate a purchase agreement directly with a landowner.

Because different agreements can have very different legal and tax implications, landowners should always have an attorney carefully review all agreements.



Easements and Rights-of-Way

A wind project developer may seek to secure land rights that do not necessarily require a lease or purchase of land, including:

- The right to install underground cables (“collector system”) or overhead transmission lines connecting the wind turbines to substations and, ultimately, to the power grid
- The right to cross nonleased land for construction, operation, and maintenance of the turbines and related equipment
- The right to prevent obstacles (buildings, trees) from interfering with the free flow of wind across the turbines
- The right to produce noise, shadows, or other minor nuisances
- The right to use property for off-site mitigation to address assumed impacts within the leased area that cannot be mitigated on-site

An **easement** is a right to use property for a defined use. Easements are commonly used for project development needs on land that does not include wind turbines, substations, or other major project construction and operation features, but that provides rights to adjoining land to prevent impacts to the project. An easement is a nonpossessory property interest that gives the holder—in this case, the developer—a right of use over the property, or that prevents landowners from doing something that is otherwise lawful, but that would be detrimental to the wind project. For instance, an easement might prohibit landowners from putting up a grain silo directly upwind of a turbine. Because easements convey property rights, they must be in writing and filed with the proper municipality or county recorder. The easement will run in perpetuity (forever) unless the instrument granting the easement provides for a term of years. Developers usually offer a one-time, lump-sum payment for the easement.

A **right-of-way (ROW)** is an easement that allows a developer to cross land with project features, such as access roads, transmission lines, or underground cabling. A ROW is also a nonpossessory property interest that gives the holder rights, for a set term or in perpetuity, to access or cross the land. As with a standard easement, a ROW must be in writing and must be filed with the proper municipality or county recorder. Any rights to alter the property within the ROW at a future date must be negotiated with the ROW holder. Developers usually offer one-time, lump-sum payments for ROWs; however, for transmission line ROWs, leases are not uncommon.

Neighbor Agreements and Variances

Neighbor agreements or “participation agreements,” are written agreements between developers and landowners whose property is directly adjacent to a project. Like easements and rights-of-way, neighbor agreements usually involve compensation to a landowner and are considered mitigation for a quantifiable impact to the landowner. Quantifiable impacts typically addressed by neighbor agreements include noise, and visual and general construction nuisances. Landowners are not typically compensated for their general dislike of a project; however, public involvement and testimony is a standard part of the land-use process in New York State and provides an opportunity for a landowner to share concerns about a project and shape the decision process. (See Local Role in Planning and Permitting for more information.)

Variances are used to address a land-use regulation when a developer wishes to get an exception to plan a project. Examples include when turbines or other project features are sited within a setback zone, or when a noise limit is exceeded at a residence due to a turbine’s placement. If the local jurisdiction has a variance process for the applicable regulation, a developer may seek a variance from the zoning board. A local jurisdiction may require a developer to show evidence of all applicable variances when a land-use application is submitted, or before it issues a land-use decision. For participating landowners (those under lease or

other property agreements with the developer), the compensation for a variance may be assumed in the lease agreement. For nonparticipating landowners, a developer may request that a neighbor agreement or some other form of agreement be executed to document the agreement and the associated compensation. Compensation for variances and neighbor agreements are typically one-time, lump-sum payments.

Lease Agreements

Under a **lease agreement**, the developer rents a portion of the property for a term of years. The lease is a written contract between the landowner and the developer, spelling out the landowner's rights and obligations, and the rights and duties of the developer. This document will govern the relationship between the landowner and developer over the life of the wind project. From the standpoint of the developer, the most important aspect of the lease is that it secures the exclusive right to use defined sections of the property for development, installation, operation, and maintenance of wind turbines and related equipment. To most landowners, the critical elements of the lease include provisions dealing with payments (how much, when, and under what conditions) and a property owner's right to continue to use the property for farming, hunting, or other purposes that aren't in conflict with the project. A well-crafted lease will deal with all facets of the wind operation from its inception to its decommissioning. It will address the duration of the agreement, the total acreage affected, ownership of the wind farm equipment, responsibility for taxes and utilities, indemnity and liability insurance, access, the developer's right to install signs and give tours of the facility, and every other aspect of the relationship between the landowner and developer. Several of these issues are covered in more detail below.

Option Agreements

In the early stages of project development, a developer may want to assess the feasibility of developing a project prior to executing a lease. This can be done under an option to lease agreement or "option agreement." The **option agreement** allows the developer access to the land to install wind energy measurement devices, such as meteorological towers and sonic detection and ranging (SODAR) equipment. An option agreement may also be secured with a landowner within the project area where no equipment will be installed, merely to secure the right to future development. An option period established in the agreement can vary in length, depending on how advanced the development project is and the business plan of the developer. Typical option periods last from two to five years, allowing a developer adequate time to assess project feasibility. During an option period, a developer is not only testing the feasibility of the wind resource, but also assessing potential environmental impacts and construction feasibility, and marketing the anticipated power output. It is common for the option agreement and lease agreement to be negotiated concurrently, where the option agreement expires at a certain date and the developer either decides to execute a lease agreement or cancel any rights to the property. As with long-term leases and easements, option agreements usually include payment according to a set schedule, and, in some cases, may include incremental increases, which encourages a developer to act quickly to determine the project's feasibility instead of tying up land for an indefinite amount of time. A developer is not inclined to make significant investments in real estate until they are confident with the feasibility of the project; therefore, option agreements typically include modest fees.

Lease Agreement Terms

Leases should be carefully developed so they clearly address issues important to the project developer and landowner at the time the lease starts, during the full life of project operations, and during project decommissioning. In some cases, the original parties to a lease will change throughout the life of the project, so it's important that all potential issues are clearly spelled out to prevent future misinterpretation.

Below is a summary of the typical lease terms that both parties tend to be most concerned with during negotiation.

Developer's Lease Goals

- Long-term with clearly defined amendment rights and extension options
- Well-defined, unimpeded rights to access and use of the property for all potential project development, construction, and operation activities
- Well-defined payment structure that spreads the real estate costs over the life of the project and is tied to predictable metrics, such as land acreage and wind-project power output
- The ability to transfer the lease without approval from the landowner

Landowner's Lease Goals

- Fair and adequate compensation for use of the property and loss of certain rights
- Well-defined, clearly established rights for continuing uses on the property
- Default terms and responsibilities of the developer at the end of the project
- Indemnification
- Clearly established measures for reducing unintended impacts

Term

Wind power leases generally have terms of 20 to 40 years, often with an option for extending the lease. A typical utility-scale wind power project has a useful life of 20 years. Developers will typically want an agreement that can be extended without significant negotiation and risk to the project, so options to extend may be written into the contract. Some contracts include clauses specifying the conditions under which either party has the right to terminate the contract. These termination clauses need to be reasonable so the risk of installing the wind turbine equipment and then having the lease terminated is low and manageable.

Area Leased

The lease should clearly state where facilities planned for the project are to be located. It is common at the early stages of development for a developer to be unsure about the exact location of infrastructure; however, areas of development can be established, and a landowner can exclude certain areas from development. Any desired setbacks from residences and property lines should be stated. Because construction and major repairs require more activity on the land than routine operations, the lease should include a provision for temporary land use during such periods for equipment storage; cranes; and other construction, operations, and maintenance activities.

A typical lease would give the sole discretion to the developer to determine the size, type, manufacturer, and exact location of wind turbines, but would exclude the developer from locating certain infrastructure within setback areas established during the lease negotiations.

Landowner's Approved Uses

The lease should clarify what uses the landowner reserves for land not developed as part of the wind project. The landowner typically reserves the right to continue to grow crops, raise cattle, or otherwise use the land. Most rural land uses are compatible with wind power projects; however, there can be some restrictions. For example, a developer may ask that hunting be restricted in the area around the turbines, for fear of vandalism to expensive equipment and compliance with insurance clauses. In these cases, it's possible that the income a landowner can earn from leasing land for wind power project development can more than offset any income lost by switching to another land use. Developers will also be concerned with any uses that could affect the wind in the area of the turbines. For example, tree crops or large structures could be restricted. The landowner's access to their property should not be limited; however, a developer may want notification when a landowner plans to harvest crops or repair roads so no conflicts arise with regularly scheduled project maintenance.

Upwind Blockage

Developers have an interest in protecting the project site from any future upwind development that could adversely impact the wind resource on the project site. If the same landowner owns the upwind land, the lease may include provisions addressing this issue. The developer may want an easement to prohibit any development within the upwind property that might impact the wind at the turbine sites. The extent of this potential problem depends on the topography of the land and the wind characteristics. The extent to which upwind development affects a project depends on the distance to the project. While properties more than 2 kilometers away are not usually of concern, the appropriate distance of concern depends on the size of the upwind project and atmospheric conditions.

Crop Protection

Normally, wind turbines can operate in productive fields with minimal interference. However, crop damage may occur in some situations, and the lease should address how this will be handled. Typical lease provisions require developers to use best efforts to minimize damage, but allow for the possibility that damage may occur and subject the party causing the damage to paying appropriate compensation. Typically, a landowner would receive payment from the wind power project for such crop damage. Damage is calculated as the lost amount of product multiplied by the market price for the crop in the season the crop was damaged or destroyed. Impacts to fallow fields are usually not compensated.

Road Maintenance

The lease should identify responsibilities for maintenance of existing and new access roads. Generally, the wind power developer is responsible for this maintenance. The provisions should protect the property owner by allowing for penalties if maintenance is not performed after a reasonable request and time passage.

Decommissioning

Leases should include provisions for decommissioning the project at the end of its useful life. This includes removing wind turbines; transformers; wiring, which penetrates above ground; and the top part of foundations—and returning the land as close to its original condition as possible. The lease should also address the timely removal or disposal of damaged equipment. As part of the land-use permitting process, it is common for land-use authorities to require a developer to execute a decommissioning agreement and establish a bond, naming the county Industrial Development Agency (IDA) (or similar economic development organization) as the benefactor. Landowners should not rely on the IDA to cover their costs of decommissioning in the event a developer defaults on a contract and leaves equipment in place. Instead, landowners should ensure provisions are written into the contract to adequately protect them in such an instance.

Taxes

Responsibility for payment of property taxes should be clearly specified in the lease. The wind power project developer generally assumes responsibility for any increases in property taxes associated with the wind power project.

Typical Payment Structures

It's important to understand that a property's location within a proposed project area doesn't necessarily guarantee that a turbine will be placed on the property. There are many factors that contribute to the design of a project layout, and the distribution of turbines across the project area is not determined until the later phases of project development. Some developers do, however, compensate landowners adjacent to turbine installations—this amount is usually less than a full lease, but more than an option agreement.

Royalties

The most common compensation structure is the royalty payment. In **royalty arrangements**, the developer pays the landowner a percentage of the revenue received from the electricity produced by the turbines. This percentage is negotiated between the landowner and the developer. Royalties ensure an ongoing economic relationship between the developer and the landowner, and guarantee benefits for the landowner, provided the turbines generate the expected power. Royalties fluctuate with project revenue, based on both variable production and variable energy prices. Revenue is based on both variable production and variable energy prices. Revenue can be measured by gross receipts or metered production multiplied by the price of power paid to the project. One well-accepted option is for the wind power project operator to provide a summary of gross receipts along with each royalty payment (quarterly, annually, or other payment period agreed to in the contract), with project operators allowing landowners access to the data upon request. The landowner does not have a say in the price of the electricity that is sold.

Today in the United States, wind power project land-leasing royalties tend to be within the range of 1% to 4% of gross revenue, with the majority being between 2% and 3%. This royalty payment can be expressed in terms of a percent of production (MWh). In most cases, the percentage is a fixed number throughout the term of the lease.

Royalties are paid on a per-turbine production basis based on the average turbine production across the project (overall project generation divided by number of turbines in the project). The advantage of this arrangement versus payment on output of a specific turbine is that the pooling arrangement takes into account the production of the entire project and reduces the effects of variability of individual turbine production or the possibility that one turbine could suffer from operations problems.

Often, lease payments based on a percentage of gross revenue are supplemented by a guaranteed minimum payment. Minimum payments essentially serve as a floor price and guarantee that landowners receive some revenue, even if the wind turbines experience more than typical maintenance outages or if winds are lower than expected in any given year, producing less energy and generating less revenue.

Flat- or Fixed-Fee

In a flat- or fixed-fee arrangement, the developer and landowner agree on a fixed fee—per turbine, per unit of land, or per megawatt (MW) of installed capacity—to be paid by the developer on a monthly or yearly basis. The payment reflects the total amount of land made available by the landowner for meteorological towers, turbines, turbine spacing requirements, access roads, and control and maintenance buildings. This ensures transparency and clarity, and provides both the landowner and project developer with certainty about future income or payment streams.

One-Time, Lump-Sum Payment

This type of contract is the least common arrangement. It may be satisfactory to both parties if the landowner is in need of immediate cash and is willing to forego the prospect of a steady income stream, and the developer has the ability to release a large amount of cash up front. This arrangement is most common for easements and ROWs.

Typical Payment Range

In a study conducted by Windustry in 2009, lease details were summarized to provide landowners with an idea of the current market rate for wind energy leases. Due to the fluctuating energy market and changes in methods for financing wind energy projects, prices noted in the 2009 study are not necessarily representative of what a landowner should expect today. Additionally, landowner payments may vary both within and across projects based on several factors. It is advised to have a real estate attorney (with an understanding of the current energy market and typical wind energy lease structure) review lease proposals from developers to assess what a landowner is being offered.

Lease rates are likely to be highest in regions and states with a more competitive renewable energy market, for example, in states with Renewable Portfolio Standard laws and/or financial incentives. Additionally, the price of energy varies across markets, so the price of renewable energy will also vary. The Windustry study summarized lease prices from 1998 through 2008 and found a trend of increasing lease rates as the wind energy market matured. Data was not available beyond 2008, so it can't be confirmed that the trend toward increasing lease payments continued. In fact, it's likely that lease prices leveled off, and in some places were reduced to reflect the lower prices of wind energy in the current market. The study found the average per-turbine per-year lease payment in 1998 was \$1,650 and the average per-MW per-year payment was \$2,300. In 2008, the average per-turbine per-year lease payment was \$5,400 and the average per-MW per-year payment was \$3,500. The per-acre payment for temporary impacts and leases for infrastructure other than turbines (including access roads, easements, and ROWs) varies across regions as well. Typically, the price reflects the value of the crop or land that is impacted. Market value for land should be considered, as well as the value of any crop or livestock displaced or affected by installed infrastructure, in determining the appropriate per-acre cost.

Additional Resources

[Windustry: Wind Energy Easements and Leases: Compensation Packages](#)

[NYSDAM: Guidelines for Agricultural Mitigation for Wind Power Projects](#)

Public Hearing TOH IDA - December 7, 2022

VR Vincent Randazzo <
To: Fred Parola; Edie Longo; Laura Tomeo
Cc: Anthony P D'Esposito; Matthew F Paccione; doncla@hempsteadny.gov +5 others

👍 ↩ ↶ ↷ ↵ ...
Mon 12/5/2022 11:00 AM

📎 Letter to the TOH IDA 12-5-2022 F...
126 KB

Good morning,

The Island Park UFSD is aware that a public hearing has been noticed to take place at Town Hall on December 7, 2022, for the purpose of considering the adoption of an amended uniform tax exemption policy. Please see the attached letter which outlines the concerns of the Island Park UFSD with respect to the proposed amendments.

The District requests that this letter be entered into the record at the public hearing, which has been noticed to take place on December 7, 2022.

Respectfully,

Vincent Randazzo

Island Park UFSD
Superintendent of Schools

Phone 516-434-2600

Web <http://www.ips.k12.ny.us/>

Twitter @Supt_IPS

↩ Reply ↶ Reply all ↷ Forward

Island Park Schools

99 RADCLIFFE ROAD
ISLAND PARK, NEW YORK 11558



PHONE (516) 434-2600
FAX (516) 431-7550

MR. VINCENT RANDAZZO
SUPERINTENDENT OF SCHOOLS

EXHIBIT

TOWN EXHIBIT C 12/7/22 DF

exhibitstickers.com

December 5, 2022

Town of Hempstead Industrial Development Agency
350 Front Street
Hempstead, NY 11550-4037

Re: Issuance of PILOTS and Other Tax Reductions

Dear Members of the TOH IDA,

The Island Park UFSD is aware that a public hearing has been noticed to take place at Town Hall on December 7, 2022, for the purpose of considering the adoption of an amended uniform tax exemption policy.

After review of the Notice of a Public Hearing, I am writing to express the District's concerns with respect to the proposed amendments to the Uniform Tax Exemption Policy and Guidelines. Specifically, we object to the proposed amendment to Section I. A. Real Property (paragraph thirteen) which would allow a term of up to 25 years for a PILOT pertaining to electrical power generating facilities, electrical storage facilities, co-generation facilities, energy transmission lines or facilities, including transmission lines, poles and underground conduits, undersea electrical cables, convertor stations, electrical interconnect facilities, equipment and substations, natural gas pipelines and pumping stations, Renewable Energy Systems, and other energy projects.

The TOH IDA must consider the impact that this amendment would have on the Island Park UFSD. Recently, it was announced that Equinor, the lease holder for the Empire Wind II Windfarm, submitted an Article VII application with a proposal to construct and operate a major transmission infrastructure along the south shore of Long Island. Equinor's application includes a proposed substation within the boundaries of the Island Park UFSD and the Incorporated Village of Island Park, which are both located within the Town of Hempstead. It is important to point out that the TOH IDA's proposed policy to grant a tax exemption and award a twenty-five-year PILOT, will undercut the District's ability to negotiate a fair PILOT agreement on any parcels related to Equinor's power generating facilities and/or any future use of the E. F. Barrett Power Plant parcels.

Please be advised that the Island Park Board of Education trustees unanimously passed a resolution on May 11, 2021, opting out of the exemption for solar and other renewable energy systems provided for by RPTL § 487. As a result, the TOH IDA must recognize its legal

obligation to provide the Island Park UFSD with a "seat" at the negotiating table so that any PILOT related to tax assessments for renewable energy projects, within the boundaries of the School District, are to the benefit of both the developer(s) and the taxing jurisdictions.

It is unfathomable that the Agency would consider providing a twenty-five-year tax exemption on these new electrical power generating facilities during the "technological revolution." As we have all learned, the future of technology does not appear to be slowing down and only looks to be increasing. Given the fact, that these new green energy technologies are relatively new to the United States, and we have no ability to truly determine the "useful life" of the equipment that will be used as part of the electric transmission system to connect the offshore wind farm to the point of interconnection, how could the TOH IDA justify a twenty-five-year PILOT? Indeed, it is certainly possible that after 25 years this technology would be considered obsolete, and Equinor could then claim an assessed value of at or near zero when the property is finally restored to the tax rolls. Having been burned once regarding the Barrett power plant, the Island Park community cannot withstand a second hit to its tax base.

On April 25, 2022, the Nassau County Legislature voted to approve a Tax Certiorari Settlement Agreement between the County and LIPA with respect to two power generating facilities in Nassau County (EF Barrett - Island Park & Glenwood Landing - North Shore). The settlement agreement went into effect for the 2022-2023 school year. Over the next five-year period, this agreement reduces the amount of property tax LIPA pays by approximately 46.5%.

It should be noted that the proposed Empire II Wind Farm and its electric transmission system, which will connect the offshore wind farm to the point of interconnection in the Village of Island Park, will provide the residents of this community with some relief from the "fiscal cliff" caused by the LIPA/Nassau County Tax Certiorari settlement.

It is our hope that the TOH IDA recognize the harm that such proposed amendments will create for the students, families, and community members of Island Park and reconsider adopting such amendments.

Respectfully,



Vincent Randazzo
Superintendent of Schools

Cc: Donald Clavin, Supervisor, Town of Hempstead
Anthony D'Espostio, Councilman, Town of Hempstead
Patricia Canzoneri-Fitzpatrick, Senator-Elect, NYS Senate
Robert Cohen, Lamb & Barnosky, District Counsel
Katherine Gavett, Ferrara & Fiorenza, Special Tax Counsel
Joseph Shields, Ferrara & Fiorenza, Special Tax Counsel

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tohsupervisor Today I joined Congressman-elect/Councilman @anthonydespo, Island Park Public Schools Superintendent Vincent Randazzo, and the entire @hempstead_town Board in calling on the Town of Hempstead IDA to prevent utility companies from obtaining PILOTS.

We support the many smart development projects approved by the TOH IDA, however we cannot allow public utility companies to benefit from tax breaks while their rates continue to increase.

#READ by clicking the link in my bio!

View 1 comment

16 HOURS AGO



Add a comment...

Post



Michael Lodato

From: Michael Lodato
Sent: Tuesday, December 6, 2022 1:35 PM
To:
Subject: RE: Contact Us Form From TOHIDA



No problem. Have a great day!

Michael Lodato
Deputy Executive Director
Town of Hempstead
Industrial Development Agency &
Local Development Corporation
(516) 414-6581 Phone
(516) 489-3179 Fax

From:
Sent: Tuesday, December 6, 2022 1:34 PM
To: Michael Lodato
Subject: Re: Contact Us Form From TOHIDA

Thank you for the quick update.

-----Original Message-----

From: Michael Lodato <[_](#)>
To:
Sent: Tue, Dec 6, 2022 1:21 pm
Subject: RE: Contact Us Form From TOHIDA

Thank you Susan for your comments. Any proposed changes to Power Plants or Utilities have been deleted from the version that will be considered by the Board after the public hearing. There are no major changes to the policy currently followed by the Town of Hempstead IDA.

Thank you,

Michael Lodato
Deputy Executive Director
Town of Hempstead
Industrial Development Agency &
Local Development Corporation

-----Original Message-----

From: TOHIDA <info@tohida.org>
Sent: Tuesday, December 6, 2022 1:14 PM
To: Michael Lodato <[_](#)>
Subject: Contact Us Form From TOHIDA

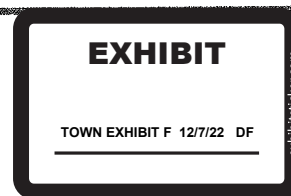
Your Name: Susan P ORourke
Email:
Phone:
Address:

Message: I understand that you are meeting to consider PILOTS to utility companies. As an Island Park resident, I am already impacted by a PILOT granted on the Barrett plant. The Equinor project is now coming in and talking about getting a PILOT. This area can not take any further impact of such a PILOT and ask that you act to not allow any future PILOTS to utility companies that can well afford to pay the full freight.

--

This e-mail was sent from a contact form on tohida.org

From: Michael Lodato
Sent: Tuesday, December 6, 2022 3:19 PM
To: joseph zydr
Subject: RE: Pilots for Utilities



Thank you,

From: '
Sent: Tuesday, December 6, 2022 3:12 PM
To: Michael Lodato
Subject: Pilots for Utilities

I stand with Supervisor Calvin & Town Council requesting that the Agency never grant a Pilot to Utilities

Thank you

Enjoy the Holiday Season

Margaret Zydor



*"Leading for the Success of
All Students in Nassau County"*

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Mr. David Schneider
Bethpage UFSD

Southwest Quadrant Leader

Mr. Daniel Rehman
West Hempstead UFSD

Executive Director

Dr. Ranier Melucci
rwrmelucci@gmail.com

November 30, 2022

EXHIBIT

TOWN EXHIBIT G 12/7/22 DF

Town of Hempstead Industrial Development Agency
350 Front Street
Hempstead, NY 11550-4037

Re: Issuance of PILOTS and Other Tax Reductions

Dear Members of the Agency;

The Nassau County Council of School Superintendents is aware of a public hearing scheduled to take place at Town Hall on December 7, 2022 for the purpose of considering the adoption of an amended uniform tax exemption policy.

The NCCSS supports efforts to encourage the development of commercial properties and affordable housing within our Nassau County communities as a resource to the community and a financial partner in bearing its fair share of taxes.

We are opposed to all actions on the part of the IDA that would include the issuance of PILOTS and other short-term or long-term tax reduction benefits as part of any property development agreement. This will unfairly place additional financial burdens upon community residents in which these properties conduct business. We encourage the IDA to include school district officials "at the table" when decisions will impact school taxpayers.

Sincerely,

Dominick Palma, Ph.D.
President, Nassau County Council of School Superintendents

CC: Mr. Clavin, Hempstead Town Supervisor