

AGENDA ITEM FOR ADMINISTRATIVE MEETING () Discussion only
(X) Action

FROM (DEPT/ DIVISION): County Counsel

SUBJECT: Solar Project

<p>Background: The owner of a solar project has submitted a request and a proposed contract for the project to qualify for tax exemption and payment in lieu of taxation. The project has 546.74 kW capacity. The proposed term is for 20 years, with annual payment of approximately \$3,827.</p>	<p>Requested Action: Response to Request</p>
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ATTACHMENTS: Proposed Contract; Law; Tax Statement; Estimated Financial Impact

Date: (November 21, 2016) Submitted By: Douglas R. Olsen

*****For Internal Use Only*****

Checkoffs:

- () Dept. Heard (copy)
- () Human Resources (copy)
- () Fiscal
- (X) Legal (copy)
- () (Other - List:)

To be notified of Meeting:
Paul Chalmers

Needed at Meeting:

Scheduled for meeting on: November 23, 2016

Action taken:

Follow-up:

SOLWATT LLC
UMATILLA COUNTY

Fee in Lieu of Property Tax Agreement

DRAFT

AGREEMENT

Solwatt LLC is an Oregon Limited Liability Company ("Solwatt"). Umatilla County is a county in the State of Oregon ("County"). This document contains the terms of an agreement between Solwatt and County for payment of a fee in lieu of property taxes on a solar power project ("Agreement").

RECITALS

- A. Solwatt owns a solar power project with a nameplate capacity of .5679 MW(DC) ("Solwatt Facility.")
- B. The Solwatt Facility is located on a 3.51-acre parcel located in Umatilla County, Oregon, Tax Map 4N2833B000103L1 ("Project Site").
- C. In 2015, the Oregon State Legislature passed HB 3492, now Chapter 571 of Oregon Laws, relating to the taxation of solar power projects. The law allows the governing body of a county and the owner of a solar project located within the county to enter into an agreement that exempts the solar project from property taxes and instead requires the solar project to make payment of a fee in lieu of property taxes ("Solar Fee").
- D. The County wishes to promote solar project development.
- E. Solwatt wishes to pay County the Solar Fee in lieu of utility property taxes for the Solwatt Facility.
- F. The Solwatt Facility has not received a tax exemption under O.R.S 285C.350 - 285C.370, or O.R.S 307.123 for any property tax year.

Solwatt and County agree to the following terms:

TERMS

1. Term. This Agreement becomes effective on the date the last signature is applied (“Effective Date”). Unless subject to lawful early termination, this Agreement terminates twenty years after the Effective Date (“Expiration Date”).
2. Fee in Lieu of Property Taxes. For the Term of this Agreement, Solwatt will pay the Solar Fee annually and County will exempt the Subject Property from County property taxes.
3. Calculation of Solar Fee. The Solar Fee will be computed at the rate of \$7,000 per megawatt of nameplate capacity of the Solwatt Facility for each property tax year (A “Property Tax Year” is July 1 through June 30). Nameplate Megawatt capacity is carried to the third decimal place.
4. Requests for Computation of Fee.
 - 4.1. First Year Request. Prior to the first Property Tax Year under this Agreement, Solwatt will file a copy of this Agreement with the County assessor and submit a request for computation of the Solar Fee in lieu of the property taxes for the Solwatt Facility (“Request for Computation”) for the first Property Tax Year under this Agreement.
 - 4.2. Subsequent Requests. Solwatt will file with the County assessor a Request for Computation before December 31 of each subsequent property tax year under this Agreement.
 - 4.3. Late Fee. Solwatt will submit a two-hundred dollar late fee with any Request for Computation filed after the relevant due date.
5. Computation and Notice of Solar Fee. Before February 2 of each year the County assessor will compute the Solar Fee and provide notice (“Notice of Fee”) to Solwatt indicating:
 - 5.1. The Solar Fee must be paid to the County treasurer before March 2 of each year;
and
 - 5.2. The amount due and of the consequences of late payment or nonpayment.
6. Payment of Solar Fee. The Solar Fee is not considered due until 10 calendar days after County provides Notice of Fee.
7. Failure to Pay Solar Fee.
 - 7.1. If Solwatt fails to pay the Solar Fee, the Solwatt Facility will not be exempt from property taxes for the following property tax year.
 - 7.2. Notwithstanding Section 7.1, the Solwatt Facility is exempt for the following property tax year upon payment by Solwatt within one year after the date of

of the Solwatt Facility. This change in ownership information must be provided to the County in the first Request for Computation provided subsequent to change in ownership.

15. Entire Agreement. This Agreement contains all of the terms related to the subject matter of this Agreement and therefore supersedes all prior or contemporaneous communications related to the terms of this Agreement.

16. Survival. The indemnifications provisions survive the term of this Agreement. The Compensation provisions survive the term of this Agreement.

- Signature Page to Follow -

DRAFT

The Parties enter into this Agreement as of the Effective Date.

SOLWATT LLC

Name: _____

Title: _____

Signature: _____

COUNTY OF UMATILLA

Name: _____

Title: _____

Signature: _____

DRAFT

Enrolled
House Bill 3492

Sponsored by Representative HUFFMAN; Representatives BENTZ, DAVIS, HELM, READ, REARDON, Senator ROBLAN

CHAPTER

AN ACT

Relating to taxation of solar projects; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1)(a) The governing body of a county and the owner or person in possession or control of a solar project located within the county and outside the boundaries of any incorporated city may enter into an agreement that exempts from property taxes the property constituting the solar project and allows the payment of a fee in lieu of property taxes imposed on the property. An agreement may not be entered into for a term longer than 20 consecutive years.

(b) If any portion of a solar project is located within the boundaries of an incorporated city, the governing body of the county shall consult with the governing body of the city before entering into an agreement under paragraph (a) of this subsection. An agreement entered into under paragraph (a) of this subsection with respect to a solar project located within the boundaries of the incorporated city is not effective unless the governing body of the city is a party to the agreement.

(2) The fee in lieu of property taxes shall be computed at the rate of \$7,000 per megawatt of nameplate capacity of the solar project for each property tax year. Megawatt of nameplate capacity shall be carried to the third decimal place.

(3)(a) On or before December 31 preceding the first property tax year to which an agreement entered into under this section relates, the owner or person in possession or control of the solar project shall file with the county assessor a copy of the agreement and a request for computation of the fee in lieu of property taxes for the property constituting the solar project. The request must include any information required by the assessor to compute the fee.

(b) On or before December 31 preceding each subsequent property tax year to which an agreement entered into under this section relates, the owner or person in possession or control of the solar project shall file with the county assessor a request for computation of the fee in lieu of property taxes for the property constituting the solar project. If the identity of the owner or person in possession or control, or the nameplate capacity, of the solar project has changed, the request for computation of the fee must include the new information.

(c) A request for computation that is not filed on or before December 31 must be accompanied by a late fee of \$200.

(4)(a) On or before February 1 of each year to which the agreement relates, the county assessor shall compute the fee in lieu of property taxes for the property constituting the solar project and shall notify the owner or person in possession or control:

(A) That the fee in lieu of property taxes must be paid to the county treasurer on or before March 1; and

(B) Of the amount due and of the consequences of late payment or nonpayment.

(b) Notwithstanding paragraph (a) of this subsection, payment of the fee in lieu of property taxes is not due until after the notice required under paragraph (a) of this subsection has been sent.

(c) On or before July 15 of each year, the county treasurer shall distribute fee revenue collected under this section to each taxing district in which a solar project is located on the basis of the ratio that the taxing district's total rate of ad valorem property taxes, excluding the rates of taxes imposed to repay bonded indebtedness, bears to the total rate of ad valorem property taxes, excluding the rates of taxes imposed to repay bonded indebtedness, imposed by all taxing districts in which the solar project is located.

(5)(a) If the owner or person in possession or control of a solar project that has entered into an agreement under this section fails to pay the fee as required under this section, the property constituting the solar project is not exempt for the following property tax year and shall be assessed and taxed as other similar property is assessed and taxed.

(b) Notwithstanding paragraph (a) of this subsection, the property shall be exempt for the following property tax year upon payment, within one year after the date of delinquency, of the delinquent fee plus interest at the rate prescribed in ORS 311.505 (2). Delinquent fees and interest shall be collected in the manner provided for collection of delinquent property taxes on personal property.

(6)(a) If the owner or person in possession or control of the solar project fails to pay the fee in lieu of property taxes for more than one year during the term of an agreement entered into under this section, notwithstanding the agreement, the property constituting the solar project shall be disqualified for the exemption and payment of the fee in lieu of property taxes.

(b) Property that is disqualified under this subsection shall:

(A) Be assessed and taxed as other similar property is assessed and taxed.

(B) In addition, be assessed a penalty in an amount equal to one year of the fee in lieu of property taxes for the property. The penalty assessed under this subparagraph shall be distributed in the manner described in subsection (4)(c) of this section.

(7)(a) Property constituting a solar project that has received an exemption under ORS 285C.350 to 285C.370 or 307.123 for any property tax year is not eligible to pay a fee in lieu of property taxes under this section.

(b) Paragraph (a) of this subsection does not apply to property constituting a solar project that was the subject of an application filed pursuant to ORS 285C.350 to 285C.370 if the property did not receive the exemption for any property tax year. The election to pay the fee in lieu of property taxes for property described in this paragraph is not a disqualifying event.

SECTION 2. Section 1 of this 2015 Act applies to property tax years beginning on or after July 1, 2016.

SECTION 3. (1) Section 1 of this 2015 Act is repealed on January 2, 2022.

(2) Notwithstanding subsection (1) of this section, property constituting a solar project that is exempt from property taxes under section 1 of this 2015 Act on the date specified in subsection (1) of this section shall continue to be exempt and to pay the fee in lieu of property taxes for the term specified in the agreement entered into under section 1 of this 2015 Act.

SECTION 4. This 2015 Act takes effect on the 91st day after the date on which the 2015 regular session of the Seventy-eighth Legislative Assembly adjourns sine die.

UTILITY PROPERTY TAX STATEMENT

JULY 1, 2015 TO JUN 30, 2016
UMATILLA COUNTY, OREGON

216 SE 4TH ST
PENDLETON, OR 97801

ACCOUNT NO:
164591

PROPERTY DESCRIPTION

CODE: 0808
UP#: 237

SOLWATT
KENT MADISON
29299 MADISON RD
ECHO, OR 97826

SCHOOL DIST #8 HERMISTON	4,757.35
INTERMOUNTAIN E.S.D.	599.18
BMCC	643.47
EDUCATION TOTAL:	6,000.00

GENERAL COUNTY	3,418.44
PORT OF UMATILLA	184.68
FIRE DIST 4 HERMISTON (7-404)	1,443.00
COUNTY RADIO DISTRICT	204.00
CEMETERY DIST 8 HERMISTON	110.76
W. UMATILLA MOSQUITO CONTROL	242.52
W. UMATILLA MOSQUITO CONTROL L/O	96.00
UMATILLA SPECIAL LIBRARY DIST	441.84
GENERAL GOVT TOTAL:	6,141.24

UMATILLA CO BOND	226.20
BMCC BOND	279.72
SCHOOL DIST #8 HERMISTON BOND -	4,904.52
BONDS - OTHER TOTAL:	5,410.44

VALUES:	LAST YEAR	THIS YEAR
REAL MARKET (RMV)		
LAND		
STRUCTURES	860,000	1,200,000
TOTAL RMV	860,000	1,200,000
TOTAL ASSESSED	860,000	1,200,000
EXEMPTIONS		
NET TAXABLE:	860,000	1,200,000
TOTAL PROPERTY TAX:	12,375.74	17,551.68

Property is 546.74 KW.

.54674 x 7000
= \$3,827.18 New Tax
vs \$17,551.68

TO PAY WITH CREDIT CARD, DEBIT, OR E-CHECK
VISIT UMATILLACOUNTY.NET OR CALL 844-463-8916.

..BY CREDIT CARD: 2.5% FEE
..BY E-CHECK ONLINE: \$2.00 FEE
..MAIL: USE ENCL ENV, NOV 15TH POSTMARK ACCEPTED

QUESTIONS (541) 276-7111
ASSESSMENT QUESTIONS (541) 278-6219

2015 - 2016 TAX (Before Discount) 17,551.68

PAYMENT OPTIONS			
Date Due	3% Option	2% Option	Trimester Option
11/16/15	17,025.13	11,467.10	5,850.56
02/16/16			5,850.56
05/16/16		5,850.56	5,850.56
Total	17,025.13	17,317.66	17,551.68

TOTAL DUE (After Discount and Pre-payments) 17,025.13

? Tear Here PLEASE RETURN THIS PORTION WITH YOUR PAYMENT Tear Here ?
2015 - 2016 PROPERTY TAXES UMATILLA COUNTY UTILITY ACCOUNT NO. 164591

PAYMENT OPTIONS	Discount	Date Due	Amount	Date Due	Amount	Date Due	Amount
Full Payment Enclosed	3%	11/16/15	17,025.13				
or 2/3 Payment Enclosed	2%	11/16/15	11,467.10			05/16/16	5,850.56
or 1/3 Payment Enclosed	0%	11/16/15	5,850.56	02/16/16	5,850.56	05/16/16	5,850.56

DISCOUNT IS LOST & INTEREST APPLIES AFTER DUE DATE

Mailing address change on back

Enter Payment Amount
\$

SOLWATT
KENT MADISON
29299 MADISON RD
ECHO, OR 97826

MAKE PAYMENT TO:
Umatilla County
216 SE 4TH ST
PENDLETON, OR 97801

Solwatt Model

	Rate	% of Total	Payment	Tax Bill Amount	Billing Difference	Loss of Bonds
			\$3,827.18			
County	2.8487	25.25%	\$966.35	\$3,418.44	\$2,452.09	\$226.20
Hermiston School Dist #8	4.8877	43.32%	\$1,658.03	\$4,757.35	\$3,099.32	\$4,904.52
ESD	0.6156	5.46%	\$208.83	\$599.18	\$390.35	
BMCC	0.6611	5.86%	\$224.26	\$643.47	\$419.21	\$279.72
Port Of Umatilla	0.1539	1.36%	\$52.21	\$184.68	\$132.47	
Hermiston Fire Dist #4	1.2025	10.66%	\$407.92	\$1,443.00	\$1,035.08	
County Radio Dist	0.17	1.51%	\$57.67	\$204.00	\$146.33	
Hermiston Cemetary	0.0923	0.82%	\$31.31	\$110.76	\$79.45	
W. Umatilla Vector	0.2021	1.79%	\$68.56	\$242.52	\$173.96	
W. Umatilla Vector L/O	0.08	0.71%	\$27.14	\$96.00	\$68.86	
Umatilla Special Library	0.3682	3.26%	\$124.90	\$441.84	\$316.94	
	11.2821	100.00%	\$3,827.18	\$12,141.24	\$8,314.06	\$5,410.44