

SUPERVISOR
James J. Bach
(716) 652-7590
jbach@townofaurora.com



WS-2
to: _____

RK
ock
280
com

TOWN OF AURORA
Southside Municipal Center
300 Glead Avenue, East Aurora, NY 14052
www.townofaurora.com

TO: Town Board
FROM: Richard Dean
DATE: March 6, 2017
SUBJECT: Maple Crossing –Request to Renew Tax Exemption Agreement

**Letter sent to James Bach, from David Lawson (Belmont Management Co.)
requesting an extention of the Tax Exemption Agreement on the Maple Crossing
Apartments.**

(original agreement attached) SEE PAGE 5 re renewal terms.

MAPLE CROSSING
APARTMENTS

TAX EXEMPTION AGREEMENT

THIS AGREEMENT, dated this 25th day of Sept. 2001, is made by and between the Town of Aurora, a municipal corporation of the State of New York having its principal office at 5 South Grove St., E. Aurora, NY 14052 [hereinafter referred to as the "Town"]; and Maple Road Aurora Limited Partnership, a limited partnership organized pursuant to Article V of the Private Housing Finance Law of the State of New York and having its principal office and place of business at 215 Broadway, Buffalo, NY 14204 [hereinafter referred to as the "Redeveloper"].

New 208

RECITALS:

A. The Redeveloper has presented to the Town its plans for the construction of a 24 unit multiple residence senior housing project [hereinafter referred to as the "Project"] upon certain real property situated at 206 Maple Road in the Town of Aurora, County of Erie, State of New York, consisting of approximately 1.97 acres of vacant land and more particularly described in Exhibit "A" attached hereto and made a part hereof [hereinafter referred to as the "Property"], which Project qualifies for long term financing from the New York State Housing Trust Fund Corp. [hereinafter referred to as "HTFC"] and the USDA, Rural Development [hereinafter referred to as "RD"].

B. In order for the project to be economically feasible and thereby receive the financing which has been offered by HTFC and RD, the Redeveloper must limit the rentals to be charged and must limit rentals to those tenants with limited income, and, accordingly, cannot pay annual real property taxes on the Property to the local municipal taxing jurisdictions.

C. At the request of HTFC and RD, the Redeveloper has applied to the Town of Aurora, the County of Erie and East Aurora Union Free School District (the school district in which the Property is situated), for a 50% exemption from county, town, and school taxes pursuant to Section 125, Article V, of the Private Housing Finance Law of the State of New York, as amended, upon the terms and conditions herein set forth.

D. The Town of Aurora acts on its own behalf in assessing real property for the purpose of taxation within the meaning of Section 125(1)(c) of Article V of the Private Housing Finance Law of the State of New York, as amended, and acts on behalf of the County of Erie and the East Aurora Union Free School District in assessing real Property for the purpose of taxation within the meaning of Section 125(1)(c) of Article V of the Private Housing Finance Law of the State of New York, as amended.

E. The Town has determined that there is a need in the Town of Aurora for low income housing for the elderly and that it is in the best interest of the Town to partially exempt the Property from local and municipal taxes.

F. The treasurer of the Town [hereinafter referred to as "Supervising Agent"], and the Aurora Town Planning Board have duly approved the Project and have issued a Certificate of Approval for the Project.

G. The plans of the Project, a proposed form of this Agreement and the Certificate of Approval have been submitted by the Redeveloper to the Town Board for its approval, and such approval has been duly granted.

H. The Redeveloper is willing to provide low income housing for the elderly and to enter into this tax exemption agreement with the Town provided the Redeveloper does not lose its ability to sell the project in accordance with applicable HTFC and RD regulations and/or dissolve the Redeveloper pursuant to New York Partnership Law without providing that the remaining surplus be paid into the general funds of the Town.

I. The Town is willing to allow the Redeveloper to sell the Project in accordance with applicable HTFC and RD regulations and/or dissolve the Redeveloper pursuant to New York Partnership Law without providing that the remaining surplus be paid into the general funds of the Town.

J. The Town, by resolution adopted on the 24th day of September, 2001 by the Town Board of the Town of Aurora, has approved and authorized the execution of this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual covenants and agreements hereinafter contained, the parties hereto do hereby agree as follows:

Section I Exemption From Town, County and School Tax

The Town, as the assessing authority on behalf of the Town of Aurora, the County of Erie and the East Aurora Union Free School District, hereby grants to the Redeveloper a partial exemption from all town, county and school taxes, other than assessments for local improvements, of 50% of the value of the Property, together with the improvements to be constructed thereon, which represent an increase over the assessed valuation of the Property, both land and improvements, at the time of the conveyance of the Property to Redeveloper, as such assessment has been established by the assessor of the Town of Aurora, to wit: \$ _____. The parties hereto understand and agree that the Redevelopment shall not be entitled to such tax exemption on the tax rolls of the Town until the first tax year of such taxing entities following the first status date of such taxing entities occurring subsequent to the date upon which the Redeveloper becomes the owner of record of the Property. The Redeveloper will be required to pay all taxes and assessments lawfully levied and/or assessed against the Property, including taxes and assessments levied for the current tax year and all subsequent tax years, until the Property shall be entitled to exempt status on the tax rolls of the respective taxing entities. The Redeveloper agrees to pay such lawfully levied and/or assessed taxes and assessments.

Section 2. Term of Agreement

This Tax Exemption Agreement shall become effective and the obligations of the Redeveloper shall arise absolutely and unconditionally upon: (a) the approval of this Tax Exemption Agreement by resolution of the Town; and (b) the execution and delivery of this Tax Exemption Agreement by the Town and Redeveloper. This Tax Exemption Agreement shall continue to remain in effect until the fifteenth anniversary date of the issuance to the Redeveloper of the Certificate of Occupancy for the Project.

Section 3. Project Organized for Public Purpose

The Town and Redeveloper hereby agree that, for purposes of Article V of the Private Housing Finance Law, the provision of low rental housing units for the elderly constitutes a public purpose. The Town and Redeveloper hereby agree that, as long as such housing is so provided, the policies and purposes of Article V are hereby satisfied.

Section 4. Project Subject to Rules and Regulations of HTFC and State of New York

The Town and Redeveloper hereby agree that the Project shall be operated in accordance with the applicable rules and regulations previously promulgated or hereinafter promulgated by HTFC and RD. The Town and Redeveloper agree that the rental rates to be charged to tenants for units in the Project shall be in accordance with the applicable rules and regulations of HTFC and RD.

Section 5. Consistency with Article V

The Town and Redeveloper agree that this Agreement shall be subject to the provisions of Article V of the Private Housing Finance Law. The Town and Redeveloper agree that, without enumerating the applicable provisions of Article V, the Project shall be operated in accordance with the provisions of Article V.

Section 6. Powers of the Redeveloper

Pursuant to Section 106 of Article V of the Private Housing Finance Law, the Redeveloper shall have and may exercise such of the powers conferred by law as shall be necessary in conducting the business of the Redeveloper.

Section 7. Sale of the Project

Pursuant to Section 122 of Article V of the Private Housing Finance Law, the Town hereby consents to the sale of the Project by the Redeveloper, provided such sale is in accordance with applicable HTFC and RD regulations. Pursuant to Subdivision 4 of Section 123 of Article V, the Town hereby consents to the voluntary dissolution or termination of the Redeveloper after

such sale of the Project, and hereby consent that such dissolution or termination need not be in accordance with Subdivisions 1 and 2 of Section 123 of Article V.

Section 8. Termination of Tax Exemptions

Notwithstanding anything hereinabove or hereinafter contained to the contrary, the tax exemptions herein granted by the Town shall, upon the election of said party, terminate and be of no further force or effect upon the occurrence of any one or more of the following specified events:

- (a) the failure of the Redeveloper to diligently take all steps necessary to acquire title to the Property and commence construction of the Project at the earliest possible date;
- (b) the failure of the Redeveloper to diligently and consistently undertake the construction of the Project once commenced, and to pursue the Project to completion with all due speed;
- (c) the failure of the Redeveloper to acquire title to the Property on or before December 1, 2002;
- (d) the failure of the Redeveloper to make timely payment of the sums due and payable for three successive years;
- (e) the intentional and knowing failure of the Redeveloper to operate the Project in compliance with all applicable rules and regulations of Article V of the Private Housing Finance Law of the State of New York, HTFC and RD (including, without limitation, the regulations pertaining to the amount of rent chargeable to tenants residing in the Project);
- (f) the failure of the Redeveloper to acquire, rehabilitate, develop, maintain and operate the Property in conformance with the plans submitted by the Redeveloper to the Aurora Town Planning Board and in conformance with the permits and approvals which were granted to the Redeveloper in connection therewith.

Section 9. Appointment of Town as Agent

The Town, acting on its own behalf and as taxing authority for the County of Erie and the East Aurora Union Free School District, hereby appoints itself as the agent for the Town, County and School District for the purpose of enforcing the rights of the Town, County and School District under this Agreement. Such appointment is coupled with an interest and is irrevocable absent the execution and delivery by each of the taxing entities of a writing revoking such agency appointment. Each party to this Agreement agrees that any action to enforce the terms of this Agreement may be commenced, maintained and prosecuted by the Town for itself and/or as agent

for the County and/or School District. The Town accepts such appointment as agent and agrees to commence, maintain and prosecute actions to enforce the terms of this Agreement on behalf of itself and the County and School District, as the case may be, provided, however, that the Town shall have no obligation to proceed as agent for any other taxing entity until receipt by the Town, from the taxing entity requesting the Town to proceed, of a written direction to proceed (making specific reference to this Agreement) on behalf of the requesting taxing entity(ies), which direction shall constitute the requesting taxing entity's(ies') agreement to indemnify the Town for all costs and expenses incurred by the Town as a result of proceeding under this Agreement on behalf of the requesting taxing entity(ies).

Section 10. Renewal of Agreement

The parties acknowledge that section 125 of the Private Housing Finance Law provides that where a project is financed by a federally-aided mortgage, the tax exemption granted under this agreement may be granted for the full term of said mortgage, to wit: 30 years. The parties agree that if, at the end of the fifteen year term of this Agreement, the Property continues to be subject to mortgage financing from HTFC and RD, they will renew this agreement to provide for a continuation of the tax exemption and payment in lieu of taxes for the balance of the term of said mortgage to enable the Project to continue to be used as affordable low-income rental housing. The amount paid under this agreement for years 16-30 shall be as agreed to by the parties.

Section 11. Amendment of Agreement

This Tax Exemption Agreement may not be effectively amended, changed, modified, altered or terminated unless such amendment, change, modification, alteration or termination is in writing intended for such purpose and executed and delivered by each of the parties and, in the case of any amendment, change, modification or alteration of this Tax Exemption Agreement, unless the Redeveloper and the Town shall assume in writing the obligations of such amended, change, modified or altered agreement.

Section 12. Binding Effect

This Tax Exemption Agreement shall inure to the benefit of, and shall be binding upon, the Redeveloper, the Town and their respective successors and assigns. The provisions of this Tax Exemption Agreement are intended to be for the benefit of the Town as taxing authority. Notwithstanding anything to the contrary contained in this Tax Exemption Agreement, this Tax Exemption Agreement may not be assigned by the Redeveloper except upon the express written consent of the Town.

Section 13. Notices

All notices, certificates and other communications hereunder shall be in writing and shall be

deemed sufficiently given when sent to the applicable address stated below by registered or certified mail, return receipt requested, or by such other method as shall provide the sender with documentary evidence of such delivery. The address to which notices, certificates or other communications hereinunder shall be delivered are as follows:

To the Redeveloper: Maple Road Aurora Limited Partnership c/o Belmont Development Corp. , 215 Broadway, Buffalo, NY 14204

To the Town: Town of Aurora, 5 South Grove St., East Aurora, NY 14052, Attention: Town Supervisor

Any person entitled to notice may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates and other communications shall be sent.

Section 14. Severability

If any article, section, subdivision, paragraph, sentence, clause, phrase, provision or portion of this Tax Exemption Agreement shall for any reason be held or adjudged invalid, 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 Tax Exemption 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.

Section 15. Counterparts

This Tax Exemption Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 16. Venue and Attorneys' Fees

Any litigation relating hereto shall take place in the State of New York, Supreme Court, County of Erie. In any action or proceeding brought to enforce the terms or provisions of this Agreement, the successful or prevailing party shall, in addition to all other relief afforded to it at law, in equity or under the terms of this Agreement, be entitled to recover its reasonable attorneys' fees and litigation expenses.

Section 17. Governing Law

This Agreement shall be construed in accordance with the laws of the State of New York.

Section 18. Entire Agreement

This Agreement constitutes the entire agreement of the parties and supersedes any previous agreements or understandings, whether oral or in writing, pertaining to the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed as of the day and year first above written.

Town of Aurora

BY:



Thomas Cotton, Supervisor

Maple Road Aurora Limited Partnership

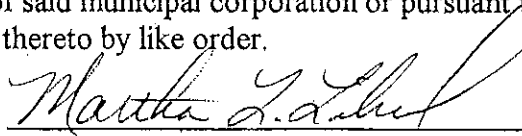
BY:



Belmont Development Corp.
Bruce C. Baird, President
General Partner

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

On this 26th day of September, 2001, before me personally came Thomas E. Cotton _____, to me personally known, who, being by me duly sworn, did depose and say that he resides in E. Aurora, New York, that he is Supervisor of the Town of Aurora, the municipal corporation described in, and which executed, the within Instrument; that he knows the seal of said municipal corporation; that the seal affixed to said Instrument is such corporate seal; that it was so affixed by order of the Town Board of said municipal corporation or pursuant to authority granted thereby; and that he signed his name thereto by like order.



NOTARY PUBLIC

MARTHA L. LIBROCK
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
MY COMMISSION EXPIRES MAY 31, 2002

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

On this 25th day of Sept, 2001, before me personally came Bruce C. Baird, to me personally known, who, being by me duly sworn, did depose and say that he resides in Buffalo, New York, that he is President of Belmont Development Corp., a general partner of Maple Road Aurora Limited Partnership, a New York limited partnership and that he has authority to sign the same, and acknowledged that he executed the same as the act and deed of said limited partnership.



NOTARY PUBLIC

KATHLEEN A. NOWICKI
Notary Public State of New York
Qualified in Erie County
My Commission Expires November 22, 2003

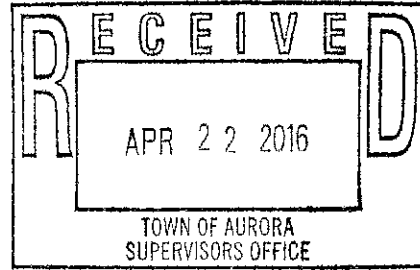
Belmont Management Co., Inc.

215 Broadway
Buffalo, New York 14204-1438

Phone (716) 854-1251
Fax (716) 854-2981
TDD Relay 711
www.belmontmgmt.com

April 20, 2016

James J. Bach, Town Supervisor
Town of Aurora, NY
300 Gleed Avenue
East Aurora, NY 14052



208 MAPLE

Re: Maple Road Aurora Limited Partnership / Maple Crossing Apartments

164.16-4-40.11

11/2016
CURRENTLY
HAS
50% EXEMPTION

Dear Supervisor Bach,

As I was reading through the Tax Exemption Agreement, dated September 21, "48670"
2001, made between the Town of Aurora and the Maple Road Aurora Limited Partnership, I realized that the final year of the agreement will be 2017. As per Limited Part.
Section 10 of the Tax Exemption Agreement, there is a provision for the Renewal of the Agreement. Quoting from Section 10, "The parties acknowledge that Section 125 of the Private Housing Finance Law provides that where a project is financed by a federally-aided mortgage, the tax exemption granted under this agreement may be granted for the full term of the said mortgage. The parties agree that if, at the end of the fifteen year term of this Agreement, the Property continues to be subject to mortgage financing from HTFC and RD, they will renew this Agreement to provide for a continuation of the tax exemption and payment in lieu of taxes for the balance of the term of said mortgage to enable the Project to continue to be used as affordable low-income rental housing. The amount paid under this agreement for years 16-30 shall be agreed to by both parties."

As the Maple Road Aurora Limited Partnership is still subject to mortgage financing from HTFC and RD, Belmont Management Company, the managing agent for the Maple Road Aurora Limited Partnership, wishes to inform the Town of Aurora, as the appointed taxing authority for the County of Erie and the East Aurora Union Free School District, that we are interested in renewing and extending the existing Tax Exempt Agreement at an amount agreeable to both parties.




EQUAL HOUSING OPPORTUNITY

As per the original Tax Exemption Agreement, the Town, as the assessing authority on behalf of the Town of Aurora, the County of Erie and the East Aurora Union Free School District, granted the Maple Road Aurora Limited Partnership a partial exemption from all town, county and school taxes, other than assessments for local improvements, of 50% of the value of the Property, beginning twelve months after the issuance of the Certificate of Occupancy.

Since the original PILOT expires during 2017, as the Managing Agent, Belmont Management Company would like to propose an extension to the PILOT agreement to cover the next fifteen years. We ask that the Town of East Aurora extend the same terms (50% exemption from County, Town and School taxes pursuant to Section 125, Article V, of the Private Housing Finance Law of the state of New York) over the next fifteen years, as the total yearly property taxes paid are similar to what we pay in other communities. All other sections of the original agreement would continue in force, as they were originally written.

Sincerely,

A handwritten signature in cursive script that reads "David Lawson".

David Lawson

Belmont Management Co., Inc.
215 Broadway, Buffalo, NY 14204
Phone: 716-854-1251
Fax: 716-854-2981
Web: www.belmontmgmt.com

NYS Real Property Tax § 420 -Nonprofit Organizations –Mandatory Class

§ 420-a. Nonprofit organizations; mandatory class. 1. (a) Real property owned by a corporation or association organized or conducted exclusively for religious, charitable, hospital, educational, or moral or mental improvement of men, women or children purposes, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association or by another such corporation or association as hereinafter provided shall be exempt from taxation as provided in this section.

(b) Real property such as specified in paragraph (a) of this subdivision shall not be exempt if any officer, member or employee of the owning corporation or association shall receive or may be lawfully entitled to receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purposes be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association or for any of its members or employees; or if it be not in good faith organized or conducted exclusively for one or more of such purposes.

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of such purposes but is leased or otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-b, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this chapter by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred six or section four hundred eight of this chapter by a corporation which owns real property exempt from taxation pursuant to such section or if it owned any would be exempt from taxation pursuant to such section, (c) for purposes which are exempt pursuant to section four hundred sixteen of this chapter by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section or (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities; and provided further that such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of the carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

3. Such real property from which no revenue is derived shall be exempt though not in actual use therefor by reason of the absence of suitable buildings or improvements thereon if (a) the construction of such buildings or improvements is in progress or is in good faith contemplated by such corporation or association or (b) such real property is held by such corporation or association upon condition that the title thereto shall revert in case any building not intended and suitable for one or more such purposes shall be erected upon such

NYS Real Property Tax § 420 -Nonprofit Organizations –Mandatory Class

premises or some part thereof.

4. Such real property shall be so exempt although it is used as a polling place upon days of registration and election.

5. Such real property owned and actually used for hospital purposes by a free public hospital which depends for maintenance and support upon voluntary charity, shall be so exempt from taxation although a portion thereof is leased or otherwise used for the purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such hospital.

6. Such real property outside a city owned by a free public library or held in trust by an educational corporation for free library purposes shall be so exempt from taxation although a portion thereof is leased or otherwise used for purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such library.

7. Real property which was, on the first day of January, nineteen hundred eighty-three owned for more than one hundred years by a corporation organized exclusively for purposes specified in subdivision one of this section under a grant or devise and a special charter granted by the legislature of the state of New York subject to conditions which raise doubt as to the power of such corporation to convey fee title to the property shall, if the property is used exclusively for educational purposes by an educational corporation which owns real property exempt from taxation, or whose real property if it owned any would be exempt from taxation, as lessee for a term of not less than twenty-five years and if such lease were in effect on the first day of January, nineteen hundred eighty-three and requires the lessee to pay all taxes levied against the property, be exempt from taxation to the same extent and subject to the same conditions and exceptions as property owned and used for educational purposes by a corporation organized exclusively for educational purposes, regardless of whether the moneys paid to the lessor by the lessee are limited to the amount of the carrying, maintenance and depreciation charges of the property.

8. Real property exempt from taxation pursuant to this section shall also be exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this chapter.

9. In addition to the exemption provided in this section, any stadium facility owned by a corporation organized exclusively for educational purposes which is constructed in whole or in substantial part with state funds shall be exempt from taxation notwithstanding its use by the state, by a municipal corporation for a public use, or by or for not-for-profit organizations.

10. Real property, which on the first day of January, nineteen hundred ninety was exempt from real property taxation pursuant to this section by reason of the ownership and use of such property by a corporation organized exclusively for educational purposes, and which the fee title to such property is conveyed prior to June thirtieth, nineteen hundred ninety-one to a governmental entity, shall be exempt from taxation; provided that (a) as a condition of such conveyance such property is leased, for a term or terms exceeding one hundred years, to an educational corporation whose real property, when used for educational

NYS Real Property Tax § 420 -Nonprofit Organizations -Mandatory Class

purposes, is exempt from taxation, and (b) such property shall continue to be used by such corporation exclusively for educational purposes subject to the same conditions and exceptions as property owned and used for educational purposes by a corporation organized exclusively for such purposes.

11. An exemption may be granted pursuant to this section upon application by the owner on a form prescribed by the commissioner or any comparable form, which application may be filed with the assessor of the

appropriate county, city, town or village on or before the applicable taxable status date. Where the assessor receives no such application, the assessor may nevertheless grant the exemption provided the assessor personally inspects the property and certifies in writing that it satisfies all of the requirements for exemption set forth in this section. Where property is not granted an exemption pursuant to this section, the owner may seek judicial review pursuant to article seven of this chapter or article seventy-eight of the civil practice law and rules.

12. Notwithstanding any provision of this chapter or any other law to the contrary, real property, the fee title to which was acquired on March twenty-third, nineteen hundred ninety-four pursuant to a mortgage foreclosure sale conducted by the federal deposit insurance corporation, by a corporation or association organized exclusively for educational purposes, and which was used exclusively by such corporation or association for carrying out thereupon educational purposes during the period beginning on the date the fee title was acquired by such corporation or association and ending on June thirtieth, nineteen hundred ninety-five, shall be exempt from taxation for such period as provided in this section. The city of New York may negotiate and execute with the owner of real property in the city of New York qualifying for exemption under this subdivision, an agreement for the payment of unpaid real property taxes and interest thereon that accrued on such property prior to the date on which the fee title to such property was acquired by such owner. Notwithstanding any provision of this chapter or the administrative code of the city of New York or any other law to the contrary, such agreement may require that payment of such taxes and interest thereon be made in quarterly installments over a period not to exceed thirty years.

* 13. Notwithstanding any provision of this chapter or any other law to the contrary, real property, the fee title to which was acquired on March twenty-third, nineteen hundred ninety-four pursuant to a mortgage foreclosure sale conducted by the federal deposit insurance corporation by a corporation or association organized exclusively for educational purposes, and which has been used exclusively by such corporation or association for carrying out thereupon educational purposes since the date on which the fee title was acquired by such corporation or association, and is currently being used for such purposes, shall be exempt from taxation as provided in this section and the city of New York may cancel and annul any unpaid real property taxes that accrued on such real property prior to the date on which the fee title to such property was acquired by such owner together with any interest accruing on such unpaid real property taxes.

* NB There are 2 sub 13's

* 13. Notwithstanding any provision of this chapter or any other law to the contrary, real property in block 1272 in the borough of Brooklyn,

NYS Real Property Tax § 420 -Nonprofit Organizations –Mandatory Class

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the fee title to which was acquired in 1997 or 1998 in order to establish a museum and center for children by a not-for-profit corporation or association organized exclusively for charitable purposes, and which has been used exclusively by such corporation or association for carrying out thereupon charitable purposes since the date on which the fee title was acquired by such corporation or association, shall be exempt from taxation as provided in this section and the city of New York may cancel and annul any unpaid real property taxes that accrued on such real property prior to the date on which the fee title to such property was acquired by such owner together with any interest accruing such unpaid real property taxes.

* NB There are 2 sub 13's

14. Notwithstanding any provision of this chapter or any other law to the contrary, real property in block 1175 in the county of Kings leased to the unified court system for the establishment and operation of a court officer academy authorized pursuant to section two hundred nineteen-b of the judiciary law shall be exempt from taxation for the duration of such lease provided that such property shall be used for such purpose and provided that title to such property shall not be conveyed to another owner at any time during the duration of such lease.

NYS Real Property Tax § 420 -Nonprofit Organizations -Permissive Class

Page 1 of 2

§ 420-b. Nonprofit organizations; permissive class. 1. (a) Real property owned by a corporation or association which is organized exclusively for bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, library, patriotic or historical purposes, for the development of good sportsmanship for persons under the age of eighteen years through the conduct of supervised athletic games, for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes either by the owning corporation or association, or by another such corporation or association as hereinafter provided, shall be exempt from taxation; provided, however, that such property shall be taxable by any municipal corporation within which it is located if the governing board of such municipal corporation, after public hearing, adopts a local law, ordinance or resolution so providing. None of the following subdivisions of this section providing that certain properties shall be exempt under circumstances or conditions set forth in such subdivisions shall exempt such property from taxation by a municipal corporation whose governing board has adopted a local law, ordinance or resolution providing that such property shall be taxable pursuant to this subdivision.

(b) No local law, ordinance or resolution adopted pursuant to this subdivision shall provide for the taxation of any particular property or owner. Any such local law, ordinance or resolution shall apply alike to all property owned by any corporation or association organized for one or more of the purposes specified in such local law, ordinance or resolution, and used for carrying out thereupon one or more of such purposes. Any purpose so specified in the local law, ordinance or resolution must be one of the purposes listed in paragraph (a) of this subdivision, but the purposes so specified in the local law, ordinance or resolution need not include all the purposes listed in said paragraph. Any local law, ordinance or resolution adopted pursuant to this subdivision may be amended or repealed.

(c) Real property such as specified in paragraph (a) of this subdivision shall not be exempt if any officer, member or employee of the owning corporation or association shall receive any pecuniary profit from the operations thereof, except reasonable compensation for services in effecting one or more of such purposes, or as proper beneficiaries of its strictly charitable purposes; or if the organization thereof for any such avowed purposes be a guise or pretense for directly or indirectly making any other pecuniary profit for such corporation or association or for any of its members or employees; or if it be not in good faith organized exclusively for one or more of such purposes.

2. If any portion of such real property is not so used exclusively to carry out thereupon one or more of the purposes listed in subdivision one of this section, but is (a) leased or (b) otherwise used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be exempt; provided, however, that such real property shall be fully exempt from taxation although it or a portion thereof is used (a) for purposes which are exempt pursuant to this section or sections four hundred twenty-a, four hundred twenty-two, four hundred twenty-four, four hundred twenty-six, four hundred twenty-eight, four hundred thirty or four hundred fifty of this article by another corporation which owns real property exempt from taxation pursuant to such sections or whose real property if it owned any would be exempt from taxation pursuant to such sections, (b) for purposes which are exempt pursuant to section four hundred six or section four hundred eight of this chapter by a corporation which owns real property exempt from taxation pursuant to such section, (c) for purposes which are

NYS Real Property Tax § 420 -Nonprofit Organizations -Permissive Class

Page 2 of 2

exempt pursuant to section four hundred sixteen of this chapter by an organization which owns real property exempt from taxation pursuant to such section or whose real property if it owned any would be exempt from taxation pursuant to such section or (d) for purposes relating to civil defense pursuant to the New York state defense emergency act, including but not limited to activities in preparation for anticipated attack, during attack, or following attack or false warning thereof, or in connection with drill or test ordered or directed by civil defense authorities; and provided further that such real property shall be exempt from taxation only so long as it or a portion thereof, as the case may be, is devoted to such exempt purposes and so long as any moneys paid for such use do not exceed the amount of carrying, maintenance and depreciation charges of the property or portion thereof, as the case may be.

3. Such real property from which no revenue is derived shall be exempt though not in actual use therefor by reason of the absence of suitable buildings or improvements thereon if (a) the construction of such buildings or improvements is in progress or is in good faith contemplated by such corporation or association or (b) such real property is held by such corporation or association upon condition that the title thereto shall revert in case any building not intended and suitable for one or more of such purposes shall be erected upon such premises or some part thereof.

4. Such real property shall be so exempt although it is used as a polling place upon days of registration and election.

5. Such real property outside a city owned by a free public library or held in trust by an educational corporation for free library purposes shall be so exempt from taxation although a portion thereof is leased or otherwise used for purposes of income, if such income is necessary for and is actually applied to the maintenance and support of such library.

6. Real property exempt pursuant to this section from taxation by all municipal corporations within which it is located shall also be exempt from special ad valorem levies and special assessments to the extent provided in section four hundred ninety of this chapter. Real property which is taxable by one or more, but not all, of the municipal corporations within which it is located, pursuant to subdivision one of this section shall also be exempt from such levies and assessments to the same extent except that:

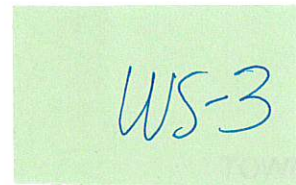
such real property taxable by a town shall be subject to any such levies and assessments which are imposed to defray the costs of improvements or services furnished by the town or by a special district established pursuant to the town law;

such real property taxable by a county shall be subject to any such levies and assessments which are imposed to defray the costs of improvements or services furnished by the county or by a special district established pursuant to the county law; and

such real property taxable by a city shall be subject to any such levies and assessments which are imposed to defray the cost of improvements or service furnished by the city.

7. An exemption may be granted pursuant to this section only upon application made by the owner of the property on a form prescribed by the commissioner. The application shall be filed with the assessor of the appropriate county, city, town or village on or before the taxable status date of such county, city, town or village.

SUPERVISOR
JAMES J. BACH
(716) 652-7590
jbach@townofaurora.com



TOWN CLERK
MARTHA L. LIBROCK
(716) 652-3280
townclerk@townofaurora.com

TOWN OF AURORA
300 Gleed Avenue, East Aurora, NY 14052
www.townofaurora.com

MEMO

TO: Town Board
FROM: Kathleen Moffat
RE: Association of Towns Annual Finance School
DATE: 03/13/17

Approval is respectfully requested to attend the 17th Annual Town Finance School sponsored by the Association of Towns and the NYS Office of the State Comptroller. The training will be held on May 4-5, 2017 at the Buffalo Niagara Marriott on Millersport Highway. The member cost of \$200.00 and applicable mileage will be disbursed from A1220.404 Supervisor Expense & Travel.

SUPERVISOR
James J. Bach
(716) 652-7590
jbach@townofaurora.com



WS-4
ERK
marina L. Librock
(716) 652-3280
townclerk@townofaurora.com

TOWN OF AURORA
Southside Municipal Center
300 Glead Avenue, East Aurora, NY 14052
www.townofaurora.com

TOWN COUNCIL MEMBERS

Susan A. Friess
sfriess@townofaurora.com

Jeffrey T. Harris
jharris@townofaurora.com

Jolene M. Jeffe
jjeffe@townofaurora.com

Charles D. Snyder
csnyder@townofaurora.com

SUPT. OF HIGHWAYS
David M. Gunner
(716) 652-4050
highway@townofaurora.com

SUPT. OF BUILDING
Patrick J. Blizniak
(716) 652-7591
building@townofaurora.com

ASSESSOR
Richard L. Dean
assessor@townofaurora.com
(716) 652-0011

DIR. OF RECREATION
Christopher Musshafen
(716) 652-8866
chris@townofaurora.com

TOWN ATTORNEY
Ronald P. Bennett

TOWN JUSTICE
Jeffrey P. Markello
Anthony DiFilippo IV

HISTORIAN
Robert L. Goller
(716) 652-7944
historian@townofaurora.com

FAX: (716) 652-3507
NYS Relay Number:
1(800) 662-1220

March 8, 2017

To: The Town Board

Please approve raising the highway and parks seasonal laborer rate to \$12 an hour. The hourly labor rate has been \$10 an hour for several years. During this time minimum wage has been raised numerous times and is now at \$9.70 an hour. We feel it is necessary to increase seasonal rates in order to continue to attract and maintain good candidates for these positions.

Thank You,

A handwritten signature in blue ink, appearing to read "David Gunner", written over a circular stamp or seal.

David Gunner
Highway Superintendent

WS-5

SUPERVISOR
James J. Bach
(716) 652-7590
jbach@townofaurora.com



ERK
MARINA L. LIOROCK
(716) 652-3280
townclerk@townofaurora.com

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NYS Relay Number:
1(800) 662-1220

March 15, 2017

To: The Town Board

The Town of Aurora Highway Department has been selected to take part in Cornell University's 2017 Pavement Management Summer Intern Program. Through this program, a college bound intern will collect and input information on the condition and traffic of all of the town's roads into Cornell's Pavement Management Software program. As part of this program we will receive the software free of charge. The program will be used by the highway superintendent to help him make cost effective and consistent decisions about maintaining our roads. It will also provide a better way to communicate road repair decisions to the town board.

We would like permission to hire Morris Thomas of Boies Rd, East Aurora, for this internship. He will be attending college in the fall to pursue a degree in engineering and he is proficient with computers. He will also be utilized as a seasonal laborer for the highway or parks department.

David Gunner
Highway Superintendent

WS-6

RESOLUTION # XX

**Resolution – Authorizing Adoption of the Town of Aurora
Zoning for Solar Energy Law**

WHEREAS, the Town of Aurora has received information regarding the effective use and regulation of solar electric energy systems from the Central New York Regional Planning and Development Board; and

WHEREAS, the Town of Aurora would benefit from the installation of solar electric energy systems on private property within the community; and

WHEREAS, residents of, and businesses within, the Town of Aurora may wish to install solar electric energy systems on their property; and

WHEREAS, the Town of Aurora can use the proposed Zoning for Solar Energy Law to meet the need of residents and businesses and to facilitate the review of installations of solar electric energy systems.

WHEREAS, the proposed Zoning for Solar Energy Law of the Town of Aurora will modify [Article/Section], Definitions, by adding definitions for solar photovoltaic systems and by amending [Article/Section], by incorporating new sections to permit certain solar photovoltaic systems as accessory uses in any zoning district and by revising [Article/Section], by adding provisions for the permitting of certain solar photovoltaic systems; and

NOW, THEREFORE, BE IT RESOLVED that the Town of Aurora adopts the proposed Zoning for Solar Energy Law for solar electric energy systems which has been attached; and

BE IT FURTHER RESLOVLED that the proposed Zoning for Solar Energy Law may be adopted pursuant to [sections 261-263 of the Town Law / sections 7-700 through 7-704 of the Village Law / sections 19 and 20 of the City Law] of the State of New York, which authorize the Town of Aurora to adopt zoning provisions that advance and protect the health, safety, and welfare of the community; and

BE IT HEREBY ENACTED AND ORDAINED by the Town Board of the Town of Aurora, Erie County, New York, that the proposed Zoning Ordinance amendments shall be adopted.

Disclosure of Prior Findings of Non-responsibility Form

(Mandatory)

Name of Individual or Entity seeking to enter the procurement contract:	
Address:	
Date:	
Solicitation or Agreement Number: PON2951 (Cleaner Greener Communities Phase II Implementation Funding, Round 2)	
Name and Title of Person Submitting this Form:	
Has any Governmental Entity made a finding of non-responsibility regarding the Individual or Entity seeking to enter the Procurement Contract in the last four years? (Please indicate with an "X")	Yes
	No
Was the basis for the finding of non-responsibility due to a violation of §139-j of the State Finance Law? (Please indicate with an "X")	Yes
	No
Was the basis for the finding of non-responsibility due to the intentional provision of false or incomplete information to a Governmental Entity? (Please indicate with an "X")	Yes
	No
If you answered yes to any of the above questions, please provide details regarding the finding of non-responsibility below.	
Government Agency or Authority:	
Date of Finding of Non-responsibility:	
Basis of Finding of Non-responsibility: (Add additional pages as necessary)	

Has any Governmental Entity or other governmental agency terminated or withheld a Procurement Contract with the above-named Individual or Entity due to the intentional provision of false or incomplete information? (Please indicate with an "X")		Yes
		No
If you answered yes, please provide details below.		
Government Agency or Authority:		
Date of Termination or Withholding of Contract:		

Basis of Termination or Withholding: (Add additional pages as necessary)

Offerer certifies that all information provided to NYSERDA with respect to State Finance Law §139-k is complete, true, and accurate.

By: _____ Date: _____
Signature

Name: _____ Title: _____

PERMIT APPLICATION

NY State Unified Solar Permit

Unified solar permitting is available statewide for eligible solar photovoltaic (PV) installations. Municipal authorities that adopt the unified permit streamline their process while providing consistent and thorough review of solar PV permitting applications and installations. Upon approval of this application and supporting documentation, the authority having jurisdiction (AHJ) will issue a building and/or electrical permit for the solar PV installation described herein.

PROJECT ELIGIBILITY FOR UNIFIED PERMITTING PROCESS

By submitting this application, the applicant attests that the proposed project meets the established eligibility criteria for the unified permitting process (subject to verification by the AHJ). The proposed solar PV system installation:

- | | | |
|------------------------------|-----------------------------|---|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 1. Has a rated DC capacity of 25 kW or less. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 2. Is not subject to review by an Architectural or Historical Review Board. (If review has already been issued answer YES and attach a copy) |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 3. Does not need a zoning variance or special use permit. (If variance or permit has already been issued answer YES and attach a copy) |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 4. Is mounted on a permitted roof structure, on a legal accessory structure, or ground mounted on the applicant's property. If on a legal accessory structure, a diagram showing existing electrical connection to structure is attached. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 5. The Solar Installation Contractor complies with all licensing and other requirements of the jurisdiction and the State. |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | 6. If the structure is a sloped roof, solar panels are mounted parallel to the roof surface. |

For solar PV systems not meeting these eligibility criteria, the applicant is not eligible for the Unified Solar Permit and must submit conventional permit applications. Permit applications may be downloaded here: [\[BUILDING DEPARTMENT WEBSITE\]](#) or obtained in person at [\[BUILDING DEPARTMENT ADDRESS\]](#) during business hours [\[INDICATE BUSINESS HOURS\]](#).

SUBMITTAL INSTRUCTIONS

For projects meeting the eligibility criteria, this application and the following attachments will constitute the Unified Solar Permitting package.

- This application form, with all fields completed and bearing relevant signatures.
- Permitting fee of \$[\[ENTER FEE HERE\]](#), payable by [\[ENTER VALID PAYMENT METHODS, If checks are allowed INCLUDING WHO CHECKS SHOULD BE MADE PAYABLE TO\]](#)
- Required Construction Documents for the solar PV system type being installed, including required attachments.

Completed permit applications can be submitted electronically to [\[EMAIL ADDRESS\]](#) or in person at [\[BUILDING DEPARTMENT ADDRESS\]](#) during business hours [\[INDICATE BUSINESS HOURS\]](#).

APPLICATION REVIEW TIMELINE

Permit determinations will be issued within [\[TIMELINE\]](#) calendar days upon receipt of complete and accurate applications. The municipality will provide feedback within [\[TIMELINE\]](#) calendar days of receiving incomplete or inaccurate applications.

FOR FURTHER INFORMATION

Questions about this permitting process may be directed to [\[MUNICIPAL CONTACT INFORMATION\]](#).

PROPERTY OWNER

Property Owner's First Name Last Name Title

Property Address

City State Zip

Section Block Lot Number

EXISTING USE

Single Family 2-4 Family Commercial Other

PROVIDE THE TOTAL SYSTEM CAPACITY RATING (SUM OF ALL PANELS)

Solar PV System: _____ kW DC

SELECT SYSTEM CONFIGURATION

Make sure your selection matches the Construction Documents included with this application.

Supply side connection with microinverters Load side connection with DC optimizers
 Supply side connection with DC optimizers Load side connection with microinverters
 Supply side connection with string inverter Load side connection with string inverter

SOLAR INSTALLATION CONTRACTOR

Contractor Business Name

Contractor Business Address City State Zip

Contractor Contact Name Phone Number

Contractor License Number(s) Contractor Email

Electrician Business Name

Electrician Business Address City State Zip

Electrician Contact Name Phone Number

Electrician License Number(s) Electrician Email

Please sign below to affirm that all answers are correct and that you have met all the conditions and requirements to submit a unified solar permit.

Property Owner's Signature Date

Solar Installation Company Representative Signature Date

SUBMITTAL REQUIREMENTS SOLAR PV 25KW OR LESS (ATTACHMENTS)

NY State Unified Solar Permit

This information bulletin is published to guide applicants through the unified solar PV permitting process for solar photovoltaic (PV) projects 25 kW in size or smaller. This bulletin provides information about submittal requirements for plan review, required fees, and inspections.

Note: Language in [ALL CAPS] below indicates where local jurisdictions need to provide information specific to the jurisdiction. Language in italics indicates explanatory notes from the authors of this document that may be deleted from the distributed version.

PERMITS AND APPROVALS REQUIRED

The following permits are required to install a solar PV system with a nameplate DC power output of 25 kW or less:

- a) Unified Solar Permit
- b) [LIST TYPE OF PERMIT(S) REQUIRED BY THE LOCAL JURISDICTION, i.e., ELECTRICAL OR BUILDING PERMIT].

Planning review [IS/IS NOT] required for solar PV installations of this size.

Fire Department approval [IS/IS NOT] required for solar PV installations of this size.

SUBMITTAL REQUIREMENTS

In order to submit a complete permit application for a new solar PV system, the applicant must include:

- a) Completed Standard Permit Application form which includes confirmed eligibility for the Unified Solar Permitting process. This permit application form can be downloaded at [WEBSITE ADDRESS].
- b) Construction Documents, with listed attachments [SAMPLES ARE AVAILABLE IN Understanding Solar PV Permitting and Inspecting in New York State AT WEBSITE ADDRESS]. Construction Documents must be by stamped and signed by a New York State Registered Architect or New York State Licensed Professional Engineer.

[MUNICIPALITY NAME], through adopting the Unified Solar Permitting process, requires contractors to provide construction documents, such as the examples included in the Understanding Solar PV Permitting and Inspecting in New York State document. Should the applicant wish to submit Construction Documents in another format, ensure that the submittal includes the following information:

- Manufacturer/model number/quantity of solar PV modules and inverter(s).
- String configuration for solar PV array, clearly indicating the number of modules in series and strings in parallel (if applicable).
- Combiner boxes: Manufacturer, model number, NEMA rating.
- From array to the point of interconnection with existing (or new) electrical distribution equipment: identification of all raceways (conduit, boxes, fittings, etc.), conductors and cable assemblies, including size and type of raceways, conductors, and cable assemblies.
- Sizing and location of the EGC (equipment grounding conductor).
- Sizing and location of GEC (grounding electrode conductor, if applicable).
- Disconnecting means of both AC and DC including indication of voltage, ampere, and NEMA rating.
- Interconnection type/location (supply side or load side connection)
- For supply side connections only, indication that breaker or disconnect meets or exceeds available utility fault current rating kAIC (amps interrupting capacity in thousands).
- Ratings of service entrance conductors (size insulation type AL or CU), proposed service disconnect, and overcurrent protection device for new supply side connected solar PV system (reference NEC 230.82, 230.70).
- Rapid shutdown device location/method and relevant labeling.

- c) (For Roof Mounted Systems) A roof plan showing roof layout, solar PV panels and the following fire safety items: approximate location of roof access point, location of code-compliant access pathways, code exemptions, solar PV system fire classification, and the locations of all required labels and markings.
- d) Provide construction drawings with the following information:
- The type of roof covering and the number of roof coverings installed.
 - Type of roof framing, size of members, and spacing.
 - Weight of panels, support locations, and method of attachment.
 - Framing plan and details for any work necessary to strengthen the existing roof structure.
 - Site-specific structural calculations.
- e) Where an approved racking system is used, provide documentation showing manufacturer of the racking system, maximum allowable weight the system can support, attachment method to roof or ground, and product evaluation information or structural design for the rack.

PLAN REVIEW

Permit applications can be submitted to [DEPARTMENT NAME] in person at [ADDRESS] and [IF APPLICABLE] electronically through: [WEBSITE/EMAIL/FAX].

FEES

[PROVIDE CLEAR FEE SCHEDULE]

INSPECTIONS

Once all permits to construct the solar PV installation have been issued and the system has been installed, it must be inspected before final approval is granted for the solar PV system. On-site inspections can be scheduled by contacting [DEPARTMENT] by telephone at [PHONE NUMBER] or electronically at [WEBSITE OR EMAIL ADDRESS]. Inspection requests received within business hours are typically scheduled for the next business day. If next business day is not available, inspection should happen within a five-day window. [IF MUNICIPALITY ACCEPTS THIRD PARTY INSPECTIONS, INDICATE THIS AND PROVIDE A LIST OF APPROVED INSPECTORS].

In order to receive final approval, the following inspections are required:

Delete Rough/Final inspection descriptions if not applicable in your jurisdiction

[ROUGH INSPECTION, IF REQUIRED] During a rough inspection, the applicant must demonstrate that the work in progress complies with relevant codes and standards. The purpose of the rough inspection is to allow the inspector to view aspects of the system that may be concealed once the system is complete, such as:

- Wiring concealed by new construction.
- Portions of the system that are contained in trenches or foundations that will be buried upon completion of the system.

It is the responsibility of the applicant to notify [ENTER CONTACT INFORMATION] before the components are buried or concealed and to provide safe access (including necessary climbing and fall arrest equipment) to the inspector.

The inspector will attempt, if possible, to accommodate requests for rough inspections in a timely manner.

[FINAL INSPECTION] The applicant must contact [INSERT CONTACT INFORMATION] when ready for a final inspection. During this inspection, the inspector will review the complete installation to ensure compliance with codes and standards, as well as confirming that the installation matches the records included with the permit application. The applicant must have ready, at the time of inspection, the following materials and make them available to the inspector:

- Copies of as-built drawings and equipment specifications, if different than the materials provided with the application.
- Photographs of key hard to access equipment, including;
 - Example of array attachment point and flashing/sealing methods used.
 - Opened rooftop enclosures, combiners, and junction boxes.
 - Bonding point with premises grounding electrode system.
 - Supply side connection tap method/device.
 - Module and microinverter/DC optimizer nameplates.
 - Microinverter/DC optimizer attachment.

[MUNICIPALITY NAME] has adopted a standardized inspection checklist, which can be found in the Understanding Solar PV Permitting and Inspecting in New York State document, found here: [WEBSITE ADDRESS].

The inspection checklist provides an overview of common points of inspection that the applicant should be prepared to show compliance. If not available, common checks include the following:

- Number of solar PV modules and model number match plans and specification sheets number match plans and specification sheets.
- Array conductors and components are installed in a neat and workman-like manner.
- Solar PV array is properly grounded.
- Electrical boxes and connections are suitable for environment.
- Array is fastened and sealed according to attachment detail.
- Conductor's ratings and sizes match plans.
- Appropriate signs are properly constructed, installed and displayed, including the following:
 - Sign identifying PV power source system attributes at DC disconnect.
 - Sign identifying AC point of connection.
 - Rapid shutdown device meets applicable requirements of NEC 690.12.
- Equipment ratings are consistent with application and installed signs on the installation, including the following:
 - Inverter has a rating as high as max voltage on PV power source sign.
 - DC-side overcurrent circuit protection devices (OCPDs) are DC rated at least as high as max voltage on sign.
 - Inverter is rated for the site AC voltage supplied and shown on the AC point of connection sign.
 - OCPD connected to the AC output of the inverter is rated at least 125% of maximum current on sign and is no larger than the maximum OCPD on the inverter listing label.
 - Sum of the main OCPD and the inverter OCPD is rated for not more than 120% of the buss bar rating.

UNIFIED SOLAR PERMITTING RESOURCES

The jurisdiction has adopted the following documents from the New York Unified Solar Permit process: Delete any documents not adopted by the jurisdiction.

- Standard Application [WEB ADDRESS]
- Understanding Solar PV Permitting and Inspecting in New York State document, which includes sample construction documents, inspection checklist, design review checklist, and labelling guide [WEB ADDRESS]

DEPARTMENTAL CONTACT INFORMATION

For additional information regarding this permit process, please consult our departmental website at [WEBSITE] or contact [DIVISION NAME] at [PHONE NUMBER].

WS-7

IN THE MATTER

OF

**[MUNICIPALITY] ESTABLISHING ENERGY
BENCHMARKING REQUIREMENTS FOR
CERTAIN MUNICIPAL BUILDINGS**

RESOLUTION

The **[TOWN/VILLAGE/CITY] BOARD OF TRUSTEES OF THE
[MUNICIPALITY]**, in the County of **[County]**, State of New York, met in regular session at the
Municipal Building, located at **[address]**, in the **[municipality]**, County of **[County]**, State of New
York, on the **[date]** at **[time]**.

The meeting was called to order by **[mayor/supervisor]**, and the following were
present, namely:

[Members and positions]

Also Present: **[Members]**

Absent: **[Members]**

The following resolutions were moved, seconded and adopted:

WHEREAS, buildings are the single largest user of energy in the State of New York;
the poorest performing buildings typically use several times the energy of the highest performing
buildings—for the exact same building use; and

WHEREAS, collecting, reporting, and sharing building energy data on a regular basis
allows municipal officials and the public to understand the energy performance of municipal
buildings relative to similar buildings nationwide, and equipped with this information the
[municipality] is able to make smarter, more cost-effective operational and capital investment
decisions, reward efficiency, and drive widespread, continuous improvement; and

WHEREAS, the **[municipality]** Board of Trustees desires to use Building Energy
Benchmarking, a process of measuring a building’s energy use, tracking that use over time, and
comparing performance to similar buildings, to promote the public health, safety, and welfare by
making available good, actionable information on municipal building energy use to help identify
opportunities to cut costs and reduce pollution in the **[Village/Town/City]**; and

WHEREAS, as such the **[Village/Town/City]** Board desires to establish procedure or
guideline for **[Village/Town/City]** staff to conduct such Building Energy Benchmarking; and

NOW THEREFORE, IT IS HEREBY RESOLVED AND DETERMINED, that the following specific policies and procedures are hereby adopted and imposed as active and affirmative financial internal control procedures of the [municipality];

BUILDING ENERGY BENCHMARKING POLICY/PROCEDURES

§1. DEFINITIONS

(A) “Benchmarking Information” shall mean information generated by Portfolio Manager, as herein defined including descriptive information about the physical building and its operational characteristics.

(B) “Building Energy Benchmarking” shall mean the process of measuring a building’s Energy use, tracking that use over time, and comparing performance to similar buildings.

(C) “Commissioner” shall mean the head of the Department.

(4) “Covered Municipal Building” shall mean a building or facility that is owned or occupied by the [municipality] that is 1,000 square feet or larger in size.

(5) “Department” shall mean the [municipality] Clerk’s Office.

(6) “Energy” shall mean electricity, natural gas, steam, hot or chilled water, fuel oil, or other product for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities, as reflected in Utility bills or other documentation of actual Energy use.

(7) “Energy Performance Score” shall mean the numeric rating generated by Portfolio Manager that compares the Energy usage of the building to that of similar buildings.

(8) “Energy Use Intensity (EUI)” shall mean the kBtUs (1,000 British Thermal Units) used per square foot of gross floor area.

(9) “Gross Floor Area” shall mean the total number of enclosed square feet measured between the exterior surfaces of the fixed walls within any structure used or intended for supporting or sheltering any use or occupancy.

(11) “Portfolio Manager” shall mean ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide, or successor.

(12) “Utility” shall mean an entity that distributes and sells Energy to Covered Municipal Buildings.

(13) “Weather Normalized Site EUI” shall mean the amount of Energy that would have been used by a property under 30-year average temperatures, accounting for the difference between average temperatures and yearly fluctuations.

§2. APPLICABILITY

(1) This policy is applicable to all Covered Municipal Buildings as defined in Section 2 of this policy.

(2) The Commissioner may exempt a particular Covered Municipal Building from the benchmarking requirement if the Commissioner determines that it has characteristics that make benchmarking impractical.

§3. BENCHMARKING REQUIRED FOR COVERED MUNICIPAL BUILDINGS

(1) No later than May 1 every year, the Commissioner or his or her designee from the Department shall enter into Portfolio Manager the total Energy consumed by each Covered Municipal Building, along with all other descriptive information required by Portfolio Manager for the previous calendar year.

(2) For new Covered Municipal Buildings that have not accumulated 12 months of Energy use data by the first applicable date following occupancy for inputting Energy use into Portfolio Manager, the Commissioner or his or her designee from the Department shall begin inputting data in the following year.

§4. DISCLOSURE AND PUBLICATION OF BENCHMARKING INFORMATION

(1) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year:

(a) no later than September 1 each year for Covered Municipal Buildings; and

(2) The Department shall make available to the public on the internet and update at least annually, the following Benchmarking Information:

(a) Summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information; and

(b) For each Covered Municipal Building individually:

(i) The status of compliance with the requirements of this Policy; and

(ii) The building address, primary use type, and gross floor area; and

(iii) Annual summary statistics, including site EUI, Weather Normalized Source EUI, annual GHG emissions, and an Energy Performance Score where available; and

(iv) A comparison of the annual summary statistics (as required by Section 5(2)(b)(iii) of this Policy) across calendar years for all years since annual reporting under this Policy has been required for said building.

§5. MAINTENANCE OF RECORDS

The Department shall maintain records as necessary for carrying out the purposes of this Policy, including but not limited to Energy bills and other documents received from tenants and/or Utilities. Such records shall be preserved by the Department for a period of three (3) years.

§6. ENFORCEMENT AND ADMINISTRATION

(1) The Commissioner or his or her designee from the Department shall be the Chief Enforcement Officer of this Policy.

(2) The Chief Enforcement Officer of this Policy may promulgate regulations necessary for the administration of the requirements of this Policy.

(3) Within thirty days after each anniversary date of the effective date of this Policy, the Chief Enforcement Officer shall submit a report to the [municipality] including but not limited to summary statistics on Energy consumption for Covered Municipal Buildings derived from aggregation of Benchmarking Information, a list of all Covered Municipal Buildings identifying each Covered Municipal Building that the Commissioner determined to be exempt from the benchmarking requirement and the reason for the exemption, and the status of compliance with the requirements of this Policy.

FURTHER RESOLVED, the [Village/Town/City] Board, in regular session duly convened, does hereby authorize and direct the [Mayor/Supervisor] or Clerk-Treasurer of the [municipality] to execute such other and additional documents as may be required for to perfect the resolutions herein;

The adoption of the foregoing Resolution was moved by _____,
seconded by _____, and duly put to vote, which resulted as follows

[member, position]
[member, position]
[member, position]
[member, position]

THIS RESOLUTION WAS ADOPTED.

I, **[name]**, **[Village/Town/City]** Clerk of the **[municipality]**, **DO HEREBY CERTIFY** that the preceding Resolution was duly adopted by the **[Village/Town/City]** Board of Trustees of the **[municipality]** at a regular meeting of the Board duly called and held on the ____ day of **[month]**, **[year]**; that said Resolution was entered in the minutes of said meeting; that I have compared the foregoing copy with the original thereof now on file in my office; and that the same is a true and correct transcript of said Resolution and of the whole thereof.

I FURTHER CERTIFY that all members of said Board had due Notice of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed
The seal of the **[municipality]**, this _____ day of **[month]**, **[year]**.

[NAME]
[Village/Town/City] Clerk of the **[municipality]**
[County] County, New York