



**City of Kingston  
Report to Council  
Report Number 16-092**

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**To:** Mayor and Members of Council  
**From:** Lanie Hurdle, Commissioner, Community Services  
**Resource Staff:** Julie Salter-Keane, Community Projects Manager  
**Date of Meeting:** March 22, 2016  
**Subject:** Kingston Solar LP (Samsung) Renewable Energy Project –  
Community Vibrancy Fund and Community Benefit Fund

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**Executive Summary:**

At the March 18, 2014 Council meeting, Council passed a motion directing the Mayor and Clerk to execute a number of agreements with Kingston Solar LP including a Community Vibrancy Fund Agreement and a Community Benefit Agreement.

Council entered into a Community Vibrancy Fund Agreement with Kingston Solar LP on March 28, 2014. The fund is a yearly contribution of \$2,700/MW for twenty (20) years. A motion passed by Council on March 4, 2014 directed that the funds be allocated to the Natural Parkland Reserve Fund for the acquisition of natural lands in the rural area. Furthermore, the agreement requires that the municipality reports on a yearly basis on the monies received and expenditures made out of the Community Vibrancy Fund.

The first payment for allocation of the Community Vibrancy Fund which covers the operational period of 2015 and all of 2016 was \$251,530.52.

The Community Benefit Fund Agreement, similar to the Community Vibrancy Fund Agreement, establishes a fund provided by the applicant to be used by the City to ensure that the Kingston Solar LP project is providing a positive return to the City. This fund is generated per megawatt and will be provided to the City on an annual basis during the lifespan of the project.

In March 2014, a proposal was presented to the City from Kingston Solar LP with the details of establishing a Community Benefit Fund for the City of Kingston. The fund is a yearly contribution of \$1,250/MW for twenty (20) years.

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The first payment for allocation which covers the operational period of 2015 and all of 2016 for the Community Benefit Fund was \$116,449.32. Staff have recently had discussions with representatives from Samsung in regards to potential areas of investments for the Community Benefit Fund. With receipt of the first payment, staff are now seeking direction from Council on how the Community Benefit Fund should be used by the municipality.

Staff are recommending that funds be utilized to support the implementation of the Waterfront Master Plan through land acquisition and park improvements.

The reporting out on the monies received from the Community Vibrancy Fund Agreement is for information purposes only. The recommendation is in regards to the Community Benefit Fund.

**RECOMMENDATION:**

**That** the Kingston Solar LP Renewable Energy Project contribution to the Community Benefit Fund be allocated to the Natural Parkland Reserve Fund for the acquisition of natural lands and parklands subject to the City of Kingston's Natural Lands and Parkland Acquisition Policy and to be allocated to capital improvements to parklands; and

**That** no later than April 30<sup>th</sup> of each year, following the first year that the Community Benefit Funds are received by the City, staff shall provide an information report to Council of monies received and expenditures made out of the Community Benefit Fund, including a description of the initiatives on which the funds were spent, during the preceding year.

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**Authorizing Signatures:**

ORIGINAL SIGNED BY COMMISSIONER

**Lanie Hurdle, Commissioner, Community Services**

ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER

**Gerard Hunt, Chief Administrative Officer**

**Consultation with the following Members of the Corporate Management Team:**

Cynthia Beach, Corporate & Strategic Initiatives	Not required
Denis Leger, Transportation, Facilities & Emergency Services	Not required
Jim Keech, President and CEO, Utilities Kingston	Not required
Desiree Kennedy, Chief Financial Officer & City Treasurer	Not required

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**Options/Discussion:**

Council passed a motion on March 18, 2014, as described below, regarding the execution of a Community Vibrancy Fund Agreement and a Municipal Benefit Fund Agreement with Kingston Solar LP (Samsung).

**“THAT** Council authorize the Mayor and Clerk to execute a Community Vibrancy Fund Agreement, Municipal Benefit Agreement and Road Use Agreement with Kingston Solar GP Inc. to the satisfaction of the Director of Legal Services, as approved by the Commissioner of Community Services or her delegate; and

**THAT** the following resolution regarding Kingston Solar GP Inc.’s request for a Municipal Council Support Resolution be adopted by Council:

**WHEREAS** Kingston Solar GP Inc. (the "Supplier") proposes to construct and operate ground mounted solar facilities (the "Project") in the City of Kingston under a power purchase agreement;

**AND WHEREAS** the Supplier has requested that Council of the City of Kingston indicate by resolution Council’s support for the construction and operation of the project in the City of Kingston;

**AND WHEREAS**, pursuant to the request of the Ontario Ministry of Energy, Ontario Ministry of the Environment, the Province of Ontario and the City of Kingston, Kingston Solar GP Inc.’s Project has met the requirements of the Landscaping and Site Design Guidelines for Large-Scale, Ground-Oriented Solar Energy Facilities and will be meeting all applicable municipal by-laws and entering into all required municipal agreements with the City of Kingston for cost recovery, road use, etc.;

**NOW THEREFORE BE IT RESOLVED THAT** Council of the City of Kingston supports the construction and operation of the Kingston Solar GP Inc.’s Project in the City of Kingston. This resolution may not be used for the purpose of any other form of municipal approval in relation to the Project or any other purpose.”

Council entered into a Community Vibrancy Fund Agreement with Kingston Solar LP on March 28, 2014. The fund is a yearly contribution of \$2,700/MW multiplied by Kingston’s Name Plate Capacity of 73.6 megawatts made by Kingston Solar LP for twenty (20) years. The City has received payment of \$251,530.52 which covers the period from September 25<sup>th</sup> to December 31<sup>st</sup> of 2015 and all of 2016.

Council passed a motion on March 4, 2014, as described below directing staff on the use of the Fund:

**“THAT** the Kingston Solar LP (Samsung) Renewable Energy Project contribution to the Community Vibrancy Fund be allocated to the Natural Parkland Reserve Fund for the

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acquisition of natural lands in the rural area subject to the City of Kingston's Natural Land Acquisition Policy."

The agreement requires the City to report out on a yearly basis and no later than April 30<sup>th</sup> of each year, the monies received from Kingston Solar LP for the Community Vibrancy Fund and expenditures made out of the Community Vibrancy Fund in the previous year. As noted above, \$251,530.52 was received to the period ending December 31, 2016 and placed in a reserve fund. There have been no expenditures from this fund to date. All proposed expenditures from the Community Vibrancy Fund will require prior approval of Council.

The Community Benefit Agreement is similar to the Community Vibrancy Agreement in that it establishes a fund provided by Kingston Solar LP to be used by the City to ensure that the solar project is providing a positive return to the City. This fund is generated per megawatt and will be provided to the City on an annual basis during the lifespan of the project. This is a separate agreement in addition to the Community Vibrancy agreement to recognize the unique and substantial nature of the Kingston Solar LP project.

The terms of the agreement require Kingston Solar LP to pay the City a Community Benefit Fund contribution of \$1,250 multiplied by the name plate capacity available within the City. The confirmed name plate capacity within the City is 73.6 megawatts. The City has received payment of \$116,449.32 which covers the period from September 25<sup>th</sup> to December 31<sup>st</sup> of 2015 and all of 2016.

With receipt of the first payment, staff is seeking direction from Council on how the funds should be used by the municipality. The Community Benefit Fund Agreement that Kingston Solar LP entered into with the City, leaves the use of the funds at the full discretion of the City as long as the Benefit Program Fund is dedicated to community betterment projects in the community.

At the February 24, 2016 meeting of the Arts, Recreation & Community Policies Committee, the committee recommended that Council endorse in principle, the Waterfront Master Plan. The motion also recommended to Council that staff be directed to proceed with execution of the Waterfront Master Plan and include identified projects in future capital budgets for consideration.

The City's Strategic Plan states that Kingston's waterfront is a prominent feature and asset to the community and that a vibrant waterfront requires balanced and respectful development that improves public access. It is a current Council priority to advance a vibrant waterfront and develop a visionary Waterfront Master Plan.

The overall Waterfront Master Plan illustrates concept designs for 138 proposed waterfront improvement projects, describes the order of magnitude costing and sets out a prioritization plan for implementation.

Once Council has approved the areas of investment under the Community Benefit Fund, City staff will submit information annually on specific projects and services through the operational and capital budget process.

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After discussions between the City of Kingston and Samsung, staff is presenting this report to Council to receive direction on the use of the funds. The recommendation to support the implementation of the Waterfront Master Plan with the funds from the Community Benefit Agreement aligns with the specification from Samsung that the monies be used for community betterment projects.

**Existing Policy/By-Law:**

Not applicable

**Notice Provisions:**

Not applicable

**Accessibility Considerations:**

Not applicable

**Financial Considerations:**

Commencing within sixty (60) days of the Commercial Operation Date of the Solar Project (September 25, 2015) and continuing annually for twenty (20) years, Kingston Solar LP will pay the City the Community Vibrancy Fund contribution of \$198,720 yearly.

Commencing within sixty (60) days of the Commercial Operation Date of the Solar Project (September 25, 2015) and continuing annually for twenty (20) years, Kingston Solar LP will pay the City the Community Benefit Fund contribution of \$92,000 yearly.

**Contacts:**

Lanie Hurdle, Commissioner, Community Services 613-546-4291 extension 1231

Julie Salter-Keane, Community Projects Manager 613-546-4291 extension 1163

**Other City of Kingston Staff Consulted:**

Not applicable

**Exhibits Attached:**

Exhibit A Report Number 14-125



**CITY OF KINGSTON**  
**REPORT TO COUNCIL**

**Report No.: 14-125**

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**TO:** Mayor and Members of Council  
**FROM:** Lanie Hurdle, Commissioner, Community Services  
**RESOURCE STAFF:** Sheldon Laidman, Acting Director, Planning & Development  
**DATE OF MEETING:** March 18, 2014  
**SUBJECT:** Request for Municipal Council Support Resolution – Sol-luce Kingston Solar PV Energy Project (Samsung)

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**EXECUTIVE SUMMARY:**

City of Kingston staff have been working with Kingston Solar GP Inc. (Samsung) in relation to their submission to the City of Kingston in support of the Sol-luce Kingston solar energy project. Council received and forwarded to the Ministry of Environment a completed Municipal Consultation Form in October 2012. The project was subsequently posted to the provincial Environmental Registry in February 2013.

The applicant is also required to obtain a Municipal Council Support Resolution from Council. Discussions and negotiation of specific agreements between the applicant and the City of Kingston have taken place to ensure the City's interests are protected as the project details are being finalized. Such agreements will include a cost recovery agreement (see Report No.: 14-094), a community vibrancy fund agreement, a municipal benefit agreement and a road use agreement. With major concerns about the proposed design addressed and details of the agreements finalized, staff are recommending that the City enter into these agreements with the applicant and that Council adopt a resolution in support of the project.

**RECOMMENDATION:**

**THAT** Council direct the Mayor and Clerk to execute a Community Vibrancy Fund Agreement, Municipal Benefit Agreement and Road Use Agreement with Kingston Solar GP Inc. to the satisfaction of the Director of Legal Services, as approved by the Commissioner of Community Services or her delegate; and

**THAT** the following resolution regarding Kingston Solar GP Inc.'s request for a Municipal Council Support Resolution be adopted by Council:

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**WHEREAS** Kingston Solar GP Inc. (the "Supplier") proposes to construct and operate ground mounted solar facilities (the "Project") in the City of Kingston under a power purchase agreement;

**AND WHEREAS** the Supplier has requested that Council of the City of Kingston indicate by resolution Council's support for the construction and operation of the project in the City of Kingston;

**AND WHEREAS**, pursuant to the request of the Ontario Ministry of Energy, Ontario Ministry of the Environment, the Province of Ontario and the City of Kingston, Kingston Solar GP Inc.'s Project has met the requirements of the Landscaping and Site Design Guidelines for Large-Scale, Ground-Oriented Solar Energy Facilities and will be meeting all applicable municipal by-laws and entering into all required municipal agreements with the City of Kingston for cost recovery, road use, etc;

**NOW THEREFORE BE IT RESOLVED THAT** Council of the City of Kingston supports the construction and operation of the Kingston Solar GP Inc.'s Project in the City of Kingston. This resolution may not be used for the purpose of any other form of municipal approval in relation to the Project or any other purpose.

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**AUTHORIZING SIGNATURES:**

ORIGINAL SIGNED BY COMMISSIONER _____ Lanie Hurdle, Commissioner, Community Services
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ORIGINAL SIGNED BY CHIEF ADMINISTRATIVE OFFICER Gerard Hunt, Chief Administrative Officer
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**CONSULTATION WITH THE FOLLOWING COMMISSIONERS:**

Cynthia Beach, <i>Corporate &amp; Strategic Initiatives</i>	N/R
Denis Leger, <i>Transportation, Facilities &amp; Emergency Services</i>	N/R
Jim Keech, <i>President and CEO, Utilities Kingston</i>	√

***(N/R indicates consultation not required)***

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**OPTIONS/DISCUSSION:**Background

As staff has previously reported, Kingston Solar GP Inc. (Samsung), acting on behalf of Kingston Solar LP, is proposing to develop a Class 3 solar photovoltaic (PV) facility up to 100 megawatts (MW) in size known as "Sol-luce Kingston Solar PV Energy Project". The project is proposed to be constructed on multiple properties in the City of Kingston and Loyalist Township. Of the 100MW proposed to be generated from this project, approximately two-thirds are expected to be generated from properties in the City of Kingston.

Staff have been working with Samsung in response to their submission to the City of Kingston in support of the Sol-luce Kingston solar energy project. Throughout a significant portion of 2012 and 2013, the Planning and Development Department met with Samsung representatives and reviewed information and formally commented back to Samsung, as the company pursued provincial approval through the Renewable Energy Approval process. Council received and forwarded to the Ministry of Environment a completed Municipal Consultation Form in October 2012 and the project was subsequently posted to the provincial Environmental Registry in February 2013. As part of a revised agreement between Kingston Solar GP Inc. and the Province of Ontario in the summer of 2013, the applicant was required to consult with the municipalities to resolve technical concerns and to obtain a Municipal Council Support Resolution (MCSR) prior to a decision by the Ministry of Energy and Ministry of the Environment.

Technical Review

Council adopted Landscaping and Site Design Guidelines for Large-Scale, Ground-Oriented Solar Energy Facilities in 2012 amidst concerns from residents about potential visual, noise and other impacts from these facilities. In late fall of 2013, the applicant submitted a second version of site design and landscaping plans to staff in support of the project. Kingston Solar GP Inc. have now revised the siting of their solar arrays (i.e.: setbacks from residences and providing buffer plantings to visually obscure the solar arrays from adjacent residential properties) in order to meet the guideline requirements. Staff have also reviewed preliminary stormwater reports, grading plans and a noise study. Staff's minor comments will be addressed to the satisfaction of the City prior to construction, as required through the Road Use Agreement.

Negotiated Agreements

Due to the magnitude and nature of the proposal, staff have identified the need to ensure the City's interests are protected and that the project will represent a positive contribution to the community. City staff have been in discussion with Kingston Solar GP Inc. to establish legal agreements related to community vibrancy funds, road use agreements, cost recovery, securities for the reconstruction and rehabilitation of any municipal works and the value of decommissioning the project at the end of its life cycle. As well, they will need to meet all applicable municipal by-laws such as the Tree By-law and Site Alteration By-law.

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Cost Recovery Agreement

In February, Council (Report No.: 14-094) authorized the execution of a Cost Recovery Agreement between the municipality and the City of Kingston. This agreement is in place to ensure that the City's costs to review agreements and the overall project are fully covered in the case of needing to seek outside expertise or assistance.

Community Vibrancy Fund Agreement

The Community Vibrancy Fund agreement will establish an amount provided by the applicant on an annual basis over the lifespan of the project to help fund projects within the City. This is a funding agreement entered into by this applicant in other municipalities with a value of \$2,700 per megawatt or \$190,000 per year at full production. Staff have verified that the other municipality in Ontario to have an agreement with Samsung (Haldimand Norfolk) has a similar funding agreement per megawatt.

Staff consulted with the Rural Affairs Committee on February 13, 2013 to seek input and direction on how the Community Vibrancy Fund should be used by the municipality. The following resolution was adopted by Council at its March 3, 2014 meeting:

**“THAT** the Kingston Solar LP Renewable Energy Project contribution to the Community Vibrancy Fund be allocated to the Natural Parkland Reserve Fund for the acquisition of natural lands in the rural area subject to the City of Kingston's Natural Land Acquisition Policy.”

Kingston Solar GP Inc. will be executing the agreement on behalf of Kingston Solar LP.

Community Benefit Agreement

The Community Benefit Fund agreement is similar to the Community Vibrancy Fund agreement in that it establishes a fund provided by the applicant to be used by the City to ensure that this project is providing a positive return to the City. This fund is also generated per megawatt and will be provided to the City on an annual basis during the lifespan of the project. This is a separate agreement in addition to this company's normal Community Vibrancy Agreement to recognize the unique and substantial nature of this development proposal. Staff were still negotiating final details at the time of writing this report. Staff will report at a later time on the details of the Community Benefit Agreement allocation options.

Road Use Agreement

One of the unique challenges with a renewable energy project, due to these projects no longer needing to seek Planning Act approvals, is that there is no mechanism to ensure municipal approvals are respected. The Road Use Agreement for this project not only provides details on how the applicant will be allowed to access municipal roads, use municipal roads and ensure that there are no negative impacts on the City's road network but it is also being used to ensure that all issues related to landscaping, drainage and stormwater will be fully reviewed and approved by the City. Conditions within the Road Use Agreement will ensure that any minor comments or revisions to technical supporting documents will be available for staff's review and

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approval prior to construction. The agreement will also require appropriate securities to cover impacts to the City’s road network and ensure that all landscaping, drainage and stormwater improvements are properly constructed.

Conclusions and Recommendations

Kingston Solar GP Inc. (Samsung) is proposing to construct an approximately 100MW ground-oriented solar energy facilities across 10 properties in the City of Kingston and several properties in Loyalist Township. The proposed locations of the facilities have been revised to meet the City’s Landscaping and Site Design Guidelines for Large-Scale, Ground-Oriented Solar Energy Facilities. As well, Kingston Solar GP Inc. will provide further detailed plans for staff to review and approve prior to construction. The City of Kingston has entered into a Cost Recovery Agreement with Kingston Solar GP Inc. and the applicant will be executing a Road Use Agreement, Community Benefit Agreement and a Community Vibrancy Fund agreement with the City. Therefore, staff recommends that Council receive this report and adopt a Municipal Council Support Resolution for Kingston Solar GP Inc.’s proposed renewable energy project.

**EXISTING POLICY/BY LAW:**

Renewable energy projects are established under the Green Energy Act (2009) and are not subject to municipal planning approvals. Other municipal by-laws do apply to such projects and will be administered accordingly. This will include, at a minimum, adherence to the Tree By-law and Site Alteration By-law.

Provincial policy is supportive of renewable energy projects.

**NOTICE PROVISIONS:**

N/A

**ACCESSIBILITY CONSIDERATIONS:**

This report is available in alternate formats upon request.

**FINANCIAL CONSIDERATIONS:**

The Community Vibrancy Agreement will provide the City with a revenue of \$2,700 per megawatt or \$190,000 per year at full production. Council has approved for the reallocation of this revenue in the Natural and Parkland Reserve Fund. The Community Benefit Fund will provide additional revenue into community programs.

**CONTACTS:**

Sheldon Laidman, Acting Director, Planning and Development	613-546-4291 ext. 3252
Cherie Mills, Manager, Policy Planning, Planning and Development	613-546-4291 ext. 3289
Calvin Chan, Senior Planner, Planning and Development	613-546-4291 ext. 3126

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**OTHER CITY OF KINGSTON STAFF CONSULTED:**

Alan McLeod, Senior Legal Counsel, Legal Services Department

Mark Van Buren, Director, Engineering Department

**EXHIBITS ATTACHED:**

Exhibit A Kingston Solar GP Inc. Site Plan

