



February 25, 2022

Timothy Crippen, Deputy Supervisor  
Town of Burke  
5165 State Route 11  
PO Box 121  
Burke, New York 12917

Re: Engineering Services Proposal  
Review of Proposed Brookside Solar Project  
Towns of Burke and Chateaugay  
Franklin County, NY

File: 708.5969

Dear Deputy Supervisor Crippen:

Barton & Loguidice, D.P.C. (B&L) is pleased to present the Town of Burke with this proposal for engineering services to review and evaluate the potential environmental and socio-economic impacts associated with the construction and operation of the 100 megawatt (MW) photovoltaic (PV) solar energy generation facility being proposed by AES Clean Energy (AES) in the Towns of Burke and Chateaugay. The proposed Brookside Solar project will consist of multiple utility scale solar arrays located on privately owned property encompassing a total area of approximately 1,000 acres. In addition to the multiple solar arrays, the project will include the construction of access roads, electric collection lines, a collection substation, and electrical interconnection facilities. Brookside Solar will connect to the nearby Chateaugay-Willis 115kV transmission line.

As you know, the proposed Brookside Solar project will be reviewed by the Office of Renewable Energy Siting (ORES) in accordance with the provisions of Section 94-c of the New York State Executive Law. In conjunction with the submittal of the 94-c application to ORES, the solar developer must also submit a check in the amount that is equivalent to \$1,000 per MW of electric generating capacity of the proposed solar facility (in this case \$100,000) for local agency funding purposes. The purpose of the local agency funding is to allow parties (e.g., municipalities and their consultants and attorneys) to contribute to the development of a complete record leading to an informed decision by ORES, and to foster broad public participation. The host municipalities (Burke and Chateaugay) are entitled to 75% of the local agency funding amount, but may apply for a higher amount if desired.

The local agency funding application, which is anticipated to be due next month, must include pertinent information (i.e. qualifications and experience) for the engineering firm and legal counsel that will be responsible for reviewing and evaluating all aspects of the proposed Brookside Solar project on behalf of the Town of Burke. In addition, the local agency funding application must also include a copy of any contract or agreement, or proposed contract or



agreement, between the Town and its consulting engineer, and the Town and the Town Attorney. We understand that the Town intends to utilize the legal services of The West Firm to represent the Town on this project.

### **Scope of Services**

On behalf of the Town of Burke, B&L will conduct a thorough review of the 94-c application submitted by AES for the proposed Brookside Solar project. This document will be reviewed by B&L staff for completeness and appropriateness of the completed studies, particularly with regards to the applicant's evaluation of the potential impacts to property owners that own land located within the vicinity of the proposed solar array fields. The potential environmental, engineering, and socio-economic impacts associated with the proposed Brookside Solar project consists of the following:

- Wetlands and Water Resources Impacts
- Topography, Geology, and Soils Impacts
- Land Use/Agricultural Impacts
- Wildlife and Aquatic Resources Impacts
- Threatened and Endangered Species Impacts
- Vegetation Impacts
- Cultural Resources Impacts
- Noise Impacts
- Visual Resources Impacts
- Public Health Impacts
- Socioeconomic Impacts
- Utilities and Infrastructure Impacts
- Transportation Impacts

B&L will ensure that each of the above listed potential environmental impacts have been thoroughly analyzed in accordance with federal and state mandated guidelines and the requirements of Section 94-c. B&L will attend formal meetings between the Town and the applicant as needed. B&L will work in conjunction with The West Firm in conducting a detailed review and evaluation of the 94-c application.

B&L has assumed that our involvement on this project is contingent upon the award of local agency funding to the Town. Therefore, we will not proceed with any work on this project until we have received written authorization to proceed from the Town. In addition to the review of

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submitted information, B&L will attend meetings as requested by the Town and/or the Town's legal counsel.

### **Fee and Schedule**

Based upon our experience in conducting the detailed review and evaluation of Article 10 and Section 94-c Solar Facility applications, B&L has estimated that the following level of effort will be required for the review of the proposed Brookside Solar project, including our involvement and participation in meetings held by the Applicant's attorney, as well as Town Board meetings.

Project Compliance with Local Laws:	Est. 24 hours of staff time
Wetlands and Water Resources Impacts:	Est. 4 hours of staff time
Topography, Geology, and Soils Impacts:	Est. 4 hours of staff time
Land Use/Agricultural Impacts:	Est. 16 hours of staff time
Wildlife and Aquatic Resources Impacts:	Est. 4 hours of staff time
Threatened and Endangered Species Impacts:	Est. 4 hours of staff time
Vegetation Impacts:	Est. 4 hours of staff time
Cultural Resources Impacts:	Est. 4 hours of staff time
Noise Impacts:	Est. 4 hours of staff time
Visual Resources Impacts:	Est. 16 hours of staff time
Public Health Impacts:	Est. 4 hours of staff time
Socioeconomic Impacts:	Est. 4 hours of staff time
Transportation/Roadway Impacts:	Est. 4 hours of staff time
Attendance at Public Statement and Evidentiary Hearings:	Est. 32 hours of staff time
Meetings with Town Board:	Est. 24 hours of staff time

Total No. of Estimated Hours:	152 hours
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The attached B&L Billing Rate sheet for calendar year 2022 lists the titles assigned to B&L staff and the corresponding hourly billing rate. A majority of the staff working on this project will be in the category of Professional V (\$140/hour) to Manager II (\$183/hour), with an average hourly billing rate of \$160/hour. Therefore, based on an average hourly billing rate of \$160/hour for B&L staff, the estimated cost of this effort is: 152 hours x \$160/hour = \$24,320. Including an amount of \$680 for direct reimbursable expenses (e.g., mileage, photocopying, postage, etc.), the total estimated fee for B&L's involvement in the review of the 94-c application is \$25,000.

The review of the proposed Brookside Solar project will be a collaborative effort by The West Firm and B&L, with input from the Town of Burke. Due to the many unknowns that currently exist with regards to this project; we propose to assist the Town of Burke on a time and expense basis in accordance with our Billing Rates in effect at the time that the work is performed. We propose that the Town of Burke approve a not to exceed amount of \$25,000 for our involvement in this project, and we will not exceed this amount without receiving the prior written approval of the Town of Burke.

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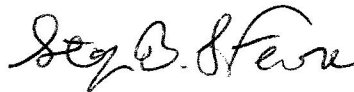
If this proposal meets with your approval, please countersign below and return one copy to B&L and retain one copy for your files. If you have any questions, please contact Steve Le Fevre at (518) 218-1801, Ext. 2029. We appreciate the opportunity to provide the Town of Burke with continued professional engineering services.

Sincerely,

BARTON & LOGUIDICE, D.P.C.



Scott D. Nostrand P.E.  
Senior Vice President

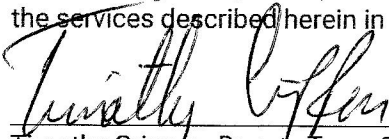


Stephen B. Le Fevre, P.G., C.P.G.  
Senior Managing Hydrogeologist

SDN/SBL/tmj  
Attachments

#### Authorization

Barton & Loguidice, D.P.C., is hereby authorized by the Town of Burke ("Owner") to proceed with the services described herein in accordance with the attached Terms and Conditions.



Timothy Crippen, Deputy Town Supervisor  
Town of Burke

3-8-22

Date

**Barton & Loguidice**  
**Billing Rates For Calendar Year 2022**



Travel by passenger vehicle\* ..... IRS standard mileage rate  
 Overnight travel & subsistence ..... at cost  
 Telephone, postage, overnight delivery, etc. .... at cost  
 In-house printing ..... Unit rate schedule for printed material  
 Field equipment & expendables ..... Unit rate schedule  
 Outside services including lab services & printing ..... Cost plus 15%

**INDIVIDUAL TECHNICAL EMPLOYEES AT THE FOLLOWING HOURLY RATES:**

<b>Billing Title</b>	<b>Hourly Rate</b>
Executive Manager	\$270.00
Manager V	\$232.00
Manager IV	\$210.00
Manager III	\$195.00
Manager II	\$183.00
Manager I	\$170.00
Professional VI	\$156.00
Professional V	\$140.00
Professional IV	\$126.00
Professional III	\$114.00
Professional II	\$99.00
Professional I	\$82.00
Technician VII	\$139.00
Technician VI	\$131.00
Technician V	\$115.00
Technician IV	\$107.00
Technician III	\$96.00
Technician II	\$80.00
Technician I	\$69.00
Construction III	\$131.00
Construction II	\$111.00
Construction I	\$99.00
Technical Assistant III	\$97.00
Technical Assistant II	\$82.00
Technical Assistant I	\$70.00

\* IRS standard mileage rate in effect at time of travel (exclusive of operator time).

**STANDARD TERMS AND CONDITIONS**  
for  
**PROFESSIONAL ENGINEERING SERVICES**  
provided by  
**BARTON & LOGUIDICE, D.P.C.**

The OWNER and the ENGINEER, for themselves, their successors and assigns, have mutually agreed and do agree with each other as follows:

**1.0 Basic Agreement**

Engineer shall provide, or cause to be provided, the services set forth in the proposal to which these terms and conditions are attached (PROPOSAL), and Owner shall pay Engineer for such Services as set forth in PROPOSAL. The PROPOSAL, in conjunction with these terms and conditions, is referred to herein as "Agreement".

**2.0 Payment Procedures**

Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner. Invoices are due and payable within 30 days of the date of the invoice. If Owner fails to make any payment due Engineer for services and expenses within 30 days after the date of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges.

**3.0 Additional Services**

If mutually agreed by Owner and Engineer, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth in the PROPOSAL if requested by the Owner. Owner shall pay Engineer for such additional services as follows: (1) as mutually agreed by Owner and Engineer, or (2) an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

**4.0 Termination**

If Engineer's services related to the project are terminated for any reason, Engineer shall be compensated for time plus reasonable expenses associated with demobilizing personnel and equipment, and, if requested in writing by the OWNER, for completion of tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

**5.0 Controlling Law**

This Agreement is to be governed by the law of the state in which the Project is located.

**6.0 Successors, Assigns, and Beneficiaries**

Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted herein the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

**7.0 General Considerations**

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

D. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.

E. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

F. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer pursuant to the PROPOSAL, whichever is greater.

H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials) except as may be specifically defined in the Scope of Services. If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

I. The services to be provided by Barton & Loguidice under this Agreement DO NOT INCLUDE advice or recommendations with respect to the issuance, structure, timing, terms or any other aspect of municipal securities, municipal derivatives, guaranteed investment contracts or investment strategies. Any opinions, advice, information or recommendations provided by Barton & Loguidice are understood by the parties to this Agreement to be strictly *engineering* opinions, advice, information or recommendations. Barton & Loguidice is not a "municipal advisor" as defined by 15 U.S.C. 78o-4 or the related rules of the Securities and Exchange Commission. The other parties to this Agreement should determine independently whether they require the services of a municipal advisor.

**8.0 Dispute Resolution**

Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice by either party of the existence of the dispute. If the parties fail to resolve a dispute through negotiation then Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by a mutually acceptable mediator. Owner and Engineer agree to participate in the mediation process in good faith and to share the cost of the mediation equally. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

**9.0 Accrual of Claims**

All causes of action between the parties to this Agreement including those pertaining to acts, failures to act, failures to perform in accordance with the obligations of the Agreement or failures to perform in accordance with the standard of care shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts, failures to act or failures to perform occurring prior to Substantial Completion, or the date of issuance of the Notice of Acceptability of Work for acts, failures to act or failures to perform occurring after Substantial Completion.

**10.0 Total Agreement**

This Agreement constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.