

GSPP 4575 STATE ROUTE 69, LLC

and

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

Oneida County Industrial Development Agency
2021 Real Estate Lease
(Annsville Solar Facility)

Oneida County, Town of Annsville, Rome City School District

Tax Account No.: **168.000-2-23.1 (portion of)**

PAYMENT-IN-LIEU-OF-TAX AGREEMENT

THIS PAYMENT-IN-LIEU-OF-TAX AGREEMENT, dated as of February 1, 2021, is by and between **GSP 4575 STATE ROUTE 69, LLC**, a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York, with offices at One Landmark Square, Suite 320, Stamford, Connecticut 06901 (the "Company") and **ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY**, an industrial development agency and a public benefit corporation of the State of New York having its principal office at 584 Phoenix Drive, Rome, New York 13441 (the "Agency").

W I T N E S S E T H:

WHEREAS, the Agency is authorized and empowered by the provisions of Title 1 of Article 18-A of the General Municipal Law, Chapter 99 of the Consolidated Laws of New York, as amended, (the "Enabling Act"), and Chapter 372 of the Laws of 1970 of the State of New York, as amended, constituting Section 901 of said General Municipal Law (said Chapter and the Enabling Act being hereinafter collectively referred to as the "Act") to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing of, among others, industrial facilities for the purpose of promoting, attracting and developing economically sound commerce and industry in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York, to improve their prosperity and standard of living, and to prevent unemployment and economic deterioration; and

WHEREAS, the Company desires that the Agency assist in the construction of an approximately 5 megawatt AC solar facility consisting of racking and foundations, inverters and transformers, necessary electrical interconnections and all improvements and connections required to transfer and deliver generation offsite, including three (3) phase extensions and power boxes, security fencing and gating; safety signage and solar photo voltaic ("PV") panels (collectively, the "Improvements"), situated on a 29.818± acre portion of a 182± acre parcel of land located at 4575 State Route 69, Town of Annsville, County of Oneida (the "Land") all for the purpose of producing renewable energy for consumers in the region under the New York State Community Solar Program (the Land, the Improvements and the Equipment are referred to collectively as the "Facility" and the construction, renovation and equipping of the Facility is referred to as the "Project"); and

WHEREAS, Kimberly Dean (the "Owner") owns the Land and leases it to the Company pursuant to a lease agreement dated April 8, 2020 (the "Land Lease"); and

WHEREAS, in order to induce the Company to develop the Facility, the Agency is willing to accept a leasehold interest in the Facility, pursuant to a Lease Agreement dated of even date herewith and lease the Facility back to the Company pursuant to the terms and conditions contained in a Leaseback Agreement dated of even date herewith; and

WHEREAS, the Agency has agreed to acquire a leasehold interest in the Facility in order to advance the job opportunities, health, general prosperity and economic welfare of the people of the State of New York; and

WHEREAS, the Facility will be exempt from real property taxes, general property taxes, general school district taxes, general assessments, service charges or other governmental charges of a similar nature levied and/or assessed upon the Facility or the interest therein of the Company or the occupancy thereof by the Company (the "Exempt Taxes") effective March 1, 2021, because the Agency is acquiring an interest in the Facility and the Facility is used for a purpose within the meaning of the applicable Constitutional and statutory provisions, including the Enabling Act, provided, however, such exemption does not extend to special assessments or ad valorem levies; and

WHEREAS, the Company understands that it, as lessee of the Facility leased by the Agency, will, in fact, have Exempt Taxes to pay under the provisions of this Agreement in the form of PILOT Payments (defined below) from the first date of the Exemption Term (as that date is determined by the parties and described herein) through the term of the Leaseback Agreement (the "Exemption Term"); and

WHEREAS, each year of the Exemption Term is more particularly set forth on Schedule B attached hereto (each year being referred to as an "Exemption Year"); and

WHEREAS, the Agency and the Company deem it necessary and proper to enter into an agreement making provision for payments-in-lieu-of-taxes and such assessments by the Company to the Town of Annsville or any existing incorporated village or any village which may be incorporated after the date hereof, within which the Facility is or may be, wholly or partially located, Oneida County, the Rome City School District and appropriate special districts more specifically set forth on Schedule A attached hereto and made a part hereof (hereinafter each a "Taxing Authority" and collectively the "Taxing Authorities") in which any part of the Facility is or is to be located; and

WHEREAS, all defined terms herein as indicated by the capitalization of the first letter thereof and not otherwise defined herein shall have the meanings ascribed to such terms as set forth in the Leaseback Agreement.

NOW, THEREFORE, to provide for certain payments to the Taxing Authorities, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. The Company shall pay to each Taxing Authority:

(a) all taxes and payments-in-lieu-of-taxes that are due with respect to the Facility prior to the Exemption Term, no later than the last day during which such payments may be made without penalty; and

(b) all special assessments and ad valorem taxes coming due and payable during the term of the Lease Agreement and the Leaseback Agreement for which the Facility is not exempt, no later than the last day during which such payments may be made without penalty (such special assessments and ad valorem taxes to be billed directly by the Tax Authority).

2. (a) The Company shall pay to the Agency a fixed amount in lieu of the Exempt Taxes (the "PILOT Payments") during each Exemption Year as follows:

(i) During Exemption Year 1, a fixed PILOT Payment equal to \$50,000.00 (\$10,000 per megawatt x 5 megawatts) (the "Minimum PILOT Payment"); and

(ii) During Exemption Years 2 through and including 10, a fixed PILOT Payment equal to the greater of the Minimum PILOT Payment or \$10,000 per megawatt generated in the immediately preceding calendar year, with an incremental increase of two percent (2.00%) for each Exemption Year; and

(iii) During Exemption Years 11 through and including 15, a fixed PILOT Payment equal to the greater of the Minimum PILOT Payment or \$10,000 per megawatt generated in the immediately preceding calendar year, with an incremental increase of five percent (5.00%) for each Exemption Year; and

(ii) 100% of Exempt Taxes after Exemption Year 15.

Anything herein to the contrary, notwithstanding, the term "Exempt Taxes" is intended to mean only the increase in real property taxes attributable to construction of

the Project. The Company shall pay taxes, or make payments in lieu of taxes, on the Land and existing facilities thereon (other than the Improvements and Equipment), as if the Agency had no leasehold or other interest therein. If the Land Lease provides that the Owner is responsible for payment of taxes, or payments in lieu of taxes, on the Land and existing facilities thereon (other than the Improvements and Equipment) the Company agrees to make such payments if the Owner fails to do so.

Anything herein to the contrary, notwithstanding, this Agreement shall terminate on the date on which the Leaseback Agreement shall terminate and the Agency shall terminate its leasehold interest in the Facility pursuant to the Leaseback Agreement. The benefits under this Agreement are subject to the terms and conditions of a certain Project Obligation and Recapture Agreement dated as of February 1, 2021 (the "Recapture Agreement").

(b) Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, shall constitute an Event of Default under Section 7.1(a)(vi) of the Leaseback Agreement, and the Agency may take any one or all remedial steps afforded it in Section 7.2 of the Leaseback Agreement; provided, however, nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

3. (a) The Agency shall prepare all PILOT invoices and shall submit the same to the Company by June 1 of each Exemption Year, which PILOT invoice shall include (i) the latest assessment notice from the Town of Annsville Assessor's Office as evidence of the Land's assessed value, (ii) a calculation of the PILOT Payment, (iii) the allocation of PILOT Payments to each Taxing Authority and (iv) the value of the Exempt Taxes that would otherwise have been paid relating to the Improvements and Equipment but not for the IDA's involvement. The Company is required to provide to the Agency its Annual Megawatt Generation Report that the Company submits to New York State for the immediately preceding year so the Agency can prepare the PILOT invoices.

(b) The Company will make PILOT Payments to the Agency hereunder for each Exemption Year by making the required payment to the Agency on behalf of the affected Taxing Authorities no later than thirty (30) days after receipt of a PILOT invoice. PILOT Payments that are delinquent under this Agreement shall be subject to a late penalty of five percent (5%) of the amount due which shall be paid by the Company to the Agency on behalf of the affected Taxing Authority at the time the PILOT Payment is paid. For each month, or part thereof, that the PILOT Payment is delinquent beyond the

first month, interest shall accrue to and be paid to the Agency on behalf of the affected Taxing Authority on the total amount due plus a late payment penalty in the amount of one percent (1%) per month until the payment is made. Anything herein to the contrary, notwithstanding, upon the failure of the Company in making any payment (or causing any payment to be made) when due hereunder and upon failure to cure such default within thirty (30) days of receipt of notice as herein provided, the Agency shall have the right to terminate the Leaseback Agreement and this PILOT Agreement, and the Company shall henceforth pay one hundred (100%) percent of the Exempt Taxes, together with all costs of collection, including but not limited to attorneys' fees. Nothing herein contained shall be deemed to limit any other rights and remedies the Agency may have hereunder or under any other Transaction Document.

(c) Such PILOT Payments shall be collected by the Agency and allocated to the Taxing Authorities in the same proportion as taxes would have been billed but for the Agency's involvement, unless the Taxing Authorities have consented in writing to a specific allocation (for the purposes of calculating the allocation, the Agency shall use the tax rate for the prior Exemption Year).

4. The PILOT Payments to be made by the Company pursuant to this Agreement are intended to be in lieu of all Exempt Taxes that would have to be paid by the Owner and/or the Company on the Facility leased to the Company by the Leaseback Agreement if the Agency did not have a leasehold or other interest in the Facility. Notwithstanding anything to the contrary in the Land Lease, all PILOT Payments are the obligation of the Company and the Company agrees to pay on behalf of the Owner all PILOT Payments with respect to the Facility for as long as this PILOT Agreement is in effect.

5. If by reason of a change in the Constitution or laws of the State of New York, or an interpretation of the Constitution or the laws of the State of New York by the Court of Appeals (or such lower court from which the time to appeal has expired) of the State of New York, or for any other reason, the Company is required to pay any tax which the payments specified herein are intended to be in lieu of, the Company may deduct the aggregate of any such payments made by it from the amount herein agreed to be paid in lieu of such taxes and need only pay the difference. Furthermore, inasmuch as the PILOT Payments herein agreed to be made by the Company are intended to be in lieu of all Exempt Taxes, it is agreed that said payments shall not, as to any Exemption Year, be in an amount greater than would be payable for such year for such Exempt Taxes, in the aggregate, by a private corporation on account of its ownership of the Facility, and accordingly the annual payment will be adjusted in any Exemption Year to be the lesser of the amount that would be payable in taxes or the PILOT Payment..

6. This Agreement shall be binding upon the successors and assigns of the parties. Nothing contained herein shall prohibit the Company from transferring a portion of or all of its (directly or indirectly) held membership interests in Company to a new member that is an affiliate of Company without obtaining prior written consent of Agency.

7. It is the intent of the parties that the Company will have all the rights and remedies of a taxpayer with respect to any real property or other tax, service charge, special benefit, ad valorem levy, assessment or special assessment or service charge because of which, or in lieu of which, the Company is obligated to make a payment hereunder, as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility. It is the further intent of the parties that the Company will have all of the rights and remedies of a taxpayer as if and to the same extent as if the Agency did not have a leasehold or other interest in the Facility with respect to any proposed assessment or change in assessment concerning the property, or any portion thereof, whether through an assessor, board of assessment review, court of law, or otherwise and likewise will be entitled to protest before and be heard by such assessor, board of assessment review, court of law or otherwise and will be entitled to take any and all appropriate appeals or initiate any proceedings to review the validity or amount of any assessment or the validity or amount of any taxes that would have been payable but for the provisions hereof. In the event, however, that a court of competent jurisdiction shall enter an order or judgment determining or declaring that, by reason of the Agency's interest in the Facility, the Company does not have the right to bring a proceeding to review such assessment under the Real Property Tax Law or any other law, then the Company shall have the right to contest such assessment in the name and as the agent of the Agency, and the Agency agrees to cooperate with the Company in all respects in any such proceeding at the sole cost and expense of the Company. Notwithstanding anything herein to the contrary, for so long as this Agreement is in effect, the Company hereby unconditionally and irrevocably waives its right, if any, to apply for and/or receive the benefit of any other real property tax exemption with respect to the Facility, including, without limitation, any real property tax exemption that may be available under Section 487 of the Real Property Tax Law.

8. All amounts payable by the Company hereunder will be paid to the Agency and will be payable in such lawful money of the United States of America as at the time of payment is legal tender for the payment of public and private debts, including a check payable in such money.

9. (a) If any term or provision hereof should be for any reason held or adjudged to be invalid, illegal or unenforceable by any court of competent jurisdiction, such term or provision will be deemed separate and independent and the remainder hereof will remain in full force and effect and will not be invalidated, impaired or otherwise affected by such holding or adjudication.

(b) This Agreement may not be effectively amended, changed, modified, altered or terminated except by an instrument in writing executed by the parties hereto.

(c) All notices, certificates or other communications hereunder shall be in writing and shall be sufficiently given and shall be deemed given when (i) mailed by United States registered or certified mail, postage prepaid, return receipt requested or (ii) when delivered by a commercial overnight courier that guarantees next day delivery and provides a receipt, to the Agency, the Bank or the Company, as the case may be, addressed as follows:

To the Agency: Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441-4105
Attn.: Chairman

With a Copy To: Bond, Schoeneck & King, PLLC
501 Main Street
Utica, New York 13501
Attn.: Linda E. Romano, Esq.

To the Company: GSPP 4575 State Route 69, LLC
One Landmark Square, Suite 320
Stamford, Connecticut 06901
Attn.: Scott Kerner

With a Copy To: Green Street Power Partners, LLC
1830 East Park Avenue, Suite 201
Tallahassee, Florida 32301
Attn.: Debi Galler, General Counsel

With a Copy To: Barclay Damon, LLP
80 State Street
Albany, New York 12207
Attn.: Genevieve M. Trigg, Esq.

provided, that the Agency or the Company may, by notice given hereunder to the other, designate any further or different addresses to which subsequent notices, certificates or other communications to them shall be sent.

(e) This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

[Signature page follows]

IN WITNESS WHEREOF, the parties have executed this **PILOT Agreement** as of the date first above written.

GSP 4575 STATE ROUTE 69, LLC
By: GSP NN Fund III, LLC
By: GSP NN Class B III, LLC, its managing member
By: GSP Holdco, LLC, its Manager

By: 

Scott Kerner
Manager

STATE OF CONNECTICUT)
 : ss.:
COUNTY OF FAIRFIELD)

On the 23rd day of February 2021 before me, the undersigned a notary public in and for said state, personally appeared **Scott Kerner**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.



Notary Public

STEPHANIE S. SANTANA
NOTARY PUBLIC OF CONNECTICUT
Comm. # 174886
My Commission Expires 9/30/2022

SECOND SIGNATURE PAGE TO PILOT AGREEMENT
(GSP 4575 STATE ROUTE 69, LLC FACILITY)

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

By: David C. Grow
David C. Grow
Chairman

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

On the 24th day of February 2021 before me, the undersigned a notary public in and for said state, personally appeared **David C. Grow**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Lori L. Patrick
Notary Public

LORI L. PATRICK
Notary Public, State of New York
No. 01PA6034055
Qualified in Oneida County
My Commission Expires Dec. 6, 2021

SCHEDULE A

COUNTY OF ONEIDA

Receiver of Taxes
800 Park Avenue
Utica, New York 13501

TOWN OF ANNSVILLE

Receiver of Taxes
P.O. Box 264
Taberg, New York 13471

ROME CITY SCHOOL DISTRICT

409 Bell Street
Rome, New York 13440
Attn.: David Dreidel, District Treasurer

SCHEDULE B

EXEMPTION YEARS

Exemption Year	County/City Taxes	School Taxes
Year One (billed 6/1/2021)	01/01/2022 – 12/31/2022	07/01/2021 – 06/30/2022
Year Two (billed 6/1/2022)	01/01/2023 – 12/31/2023	07/01/2022 – 06/30/2023
Year Three (billed 6/1/2023)	01/01/2024 – 12/31/2024	07/01/2023 – 06/30/2024
Year Four (billed 6/1/2024)	01/01/2025 – 12/31/2025	07/01/2024 – 06/30/2025
Year Five (billed 6/1/2025)	01/01/2026 – 12/31/2026	07/01/2025 – 06/30/2026
Year Six (billed 6/1/2026)	01/01/2027 – 12/31/2027	07/01/2026 – 06/30/2027
Year Seven (billed 6/1/2027)	01/01/2028 – 12/31/2028	07/01/2027 – 06/30/2028
Year Eight (billed 6/1/2028)	01/01/2029 – 12/31/2029	07/01/2028 – 06/30/2029
Year Nine (billed 6/1/2029)	01/01/2030 – 12/31/2030	07/01/2029 – 06/30/2030
Year Ten (billed 6/1/2030)	01/01/2031 – 12/31/2031	07/01/2030 – 06/30/2031
Year Eleven (billed 6/1/2031)	01/01/2032 – 12/31/2032	07/01/2031 – 06/30/2032
Year Twelve (billed 6/1/2032)	01/01/2033 – 12/31/2033	07/01/2032 – 06/30/2033
Year Thirteen (billed 6/1/2033)	01/01/2034 – 12/31/2034	07/01/2033 – 06/30/2034
Year Fourteen (billed 6/1/2034)	01/01/2035 – 12/31/2035	07/01/2034 – 06/30/2035
Year Fifteen (billed 6/1/2035)	01/01/2036 – 12/31/2036	07/01/2035 – 06/30/2036