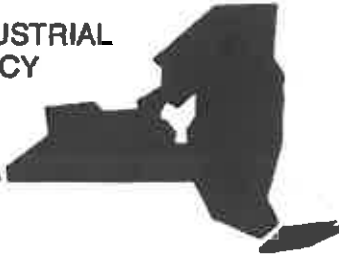


ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

OCIDA



APPLICATION FOR FINANCIAL ASSISTANCE

Oneida County Industrial Development Agency
584 Phoenix Drive
Rome, New York 13441-1405
(315) 338-0393 telephone
(315) 338-5694 fax
Shawna M. Papale, Executive Director
spapale@mvedge.org

Please submit the signed and notarized completed application (Pages 1-25 ONLY), which must include any applicable addendum or supplemental information requested in the application, along with payment of a non-refundable \$500 Application Fee and a \$1,000 Commitment Fee (will be applied to final closing costs) to the Oneida County Industrial Development Agency, 584 Phoenix Drive, Rome NY 13441-1405, within 14 days prior to the OCIDA Board of Directors meeting at which you want the Application to be included on the Agenda. Wire transfer and ACH payments are acceptable but all related fees incurred by the Agency are payable by the Applicant. An electronic version of the application must accompany the original application via physical media or e-mail.

NY CDG Oneida 2 LLC

Project Name

Date of Submission **September 5, 2023**

Important Notes to Applicant:

Upon the submission of this application to the OCIDA, the application becomes a public document. Be advised that any action brought before the Agency is public information. All agendas for the OCIDA are issued publicly prior to the full agency meeting. Upon the submission of this application to the OCIDA, the application becomes a public document and OCIDA is required by law to post on its website and make available to the public this Application and supporting materials. If when completing this Application, you deem any information to be specifically exempted from disclosure under Article Six of the Public Officers Law, please answer the question "This information is deemed to be exempt from disclosure under Article Six of the Public Officers Law and is submitted on the attached confidential addendum." It is acceptable to submit any confidential addendum electronically as a .pdf file separate from the application, but any confidential addendum must still be submitted with the hard copy of the full application (see Page 1). Please answer any such questions on a separate Addendum titled, "Confidential and Protected by Article Six of the Public Officers Law." If OCIDA is challenged to produce any information the Applicant identifies as protected, the Applicant will be required at its sole cost to defend such assertion on behalf of OCIDA.

The information requested by this application is necessary to determine the eligibility of your project for OCIDA benefits. Please answer all questions and respond "Not Applicable", "NA", or "none" where appropriate. If you're response is an estimate, please indicate so. Attach additional sheets if more space is needed for a response. **All applications must include a completed and signed NYS SEQR form and Cost Benefit Analysis form (please consult with OCIDA) before the application is considered complete.**

By signing and submitting this Application, the Applicant acknowledges that it received a copy of the Uniform Tax Exemption Policy and the Oneida County IDA Penalty for Failure to Meet Employment Levels as adopted by the Agency and Agency Memorandums pertaining to the benefits of projects financed through the Agency.

A project financed through the Agency involves the preparation and execution of significant legal documents. Please consult with an attorney before signing any documents in connection with the proposed project. You will receive an engagement letter from the OCIDA legal counsel. You will be asked to sign the engagement letter acknowledging you will be responsible for all legal fees of OCIDA legal counsel and that you understand the process. Should you not close and legal services have been rendered by the OCIDA legal counsel, Applicant will be responsible for those costs.

If your project requires a public hearing, a representative of the applicant is required to be present. A date will be coordinated by the OCIDA legal counsel.

If you have any questions how to calculate the OCIDA's application fee please refer to the enclosed Memorandum to Companies -Sale Leaseback Transactions or contact the OCIDA.

Part I: Applicant Information

Note: In responding to the following questions, please keep in mind that the Applicant will be party to all of the documents and is the individual or if entity will be formed which will receive the actual financial assistance from the Agency.

Applicant

1(a) Applicant's Legal Name: BW Solar Holding Inc.
1(b) Principal Address: 69 State Street, 13th Floor
Albany, NY 12207

1(c) Telephone/Facsimile Numbers: 585-727-9918

1(d) Email Address: daniel.huntington@bwsolar.com

1(e) Federal Identification Number: 85-0818404

1(f) Contact Person: Daniel Huntington

1(g) Is the Applicant a

Corporation: **If Yes, Public** **Private**]
If public, on which exchange is it listed?

Subchapter S
 Sole Proprietorship
 General Partnership
 Limited Partnership
 Limited Liability Corporation/Partnership
 Single-Member LLC (name and EIN below):
Name: NY CDG Oneida 2 LLC
EIN #: 37-2004262

DISC
 Other(specify) _____

1(h) State of Organization (if applicable) Delaware

Applicant's Stockholders, Members, Directors and Officers, Partners.

2(a) Provide the following information with respect to any person with 15% or more in equity holdings in any entity in ownership chain of the project. Add additional sheets if necessary.

<u>Name</u>	<u>Address</u>	<u>Percentage of Ownership</u>
BW Solar Holding Inc - 69 State Street, 13th floor, Albany, NY 12207 - 100%		

2(b) Is the Applicant, or any of the individuals listed in 2(a) above, related directly or indirectly to any other entity by more than 50% common ownership? **If Yes**, indicate name of such entity and the relationship. Yes No

2(c) Is the Applicant affiliated with any other entity, directly or indirectly, other than as listed in the response to 2(a) above? **If Yes**, please indicate name and relationship of such other entity and the address thereof: Yes No

Applicant's Counsel and Accountant

3(a) Applicant's Attorney

Name/Title: Robert J. Ryan - Partner
Firm: Harris Beach PLLC
Address: 677 Broadway, Suite 1101
Albany, NY 12207
Telephone/Fax: 518.701.2715
Email: rryan@harrisbeach.com

3(b) Applicant's Accountant

Name/Title: N/A
Firm: _____
Address: _____

Telephone/Fax: _____
Email: _____

Business Description

4(a) Describe the nature of your business and principal products and/or services. Attach additional sheets if necessary.

BW Solar is focused on the development of solar power generation and energy storage projects. Led by an experienced management team that has built and financed some of the first operational solar projects in the world, BW Solar's mission is to reduce greenhouse gases by developing and maximizing utilization of energy produced and stored by solar and energy storage projects.

Part II: Project Information

5(a) Explain your project in detail. This description should include explanation of all activities which will occur due to this project. Attach additional sheets if necessary.

The project will involve the construction of a community solar farm of 3.3MW ac in size. It will bring the opportunity for local construction jobs to the community and provide the option for local community members to save on their electricity by subscribing to the project.

Reasons for Project

6(a) Please explain in detail why you want to undertake this project.

Our business is developing solar projects. In this case we have found an interested land owner that would like to work with us to develop this community solar project.

6(b) Why are you requesting the involvement of the Agency in your project?

In order to qualify for the Uniform Tax Exemption Policy (Community Solar Projects) PILOT.

6(c) Please confirm by checking the box below, if there is the likelihood that the Project would not be undertaken **BUT FOR** the Financial Assistance provided by the Agency.

Yes No

If the Project could be undertaken without Financial Assistance provided by the Agency, ("**No**" is checked above) then provide a statement in the space provided below indicating why the Agency should approve the requested assistance:

How will the Applicant's plans be affected or scaled back if Agency approval is not granted?

Without the Uniform Tax Exemption Policy (Community Solar Projects) agreement the project would not be financially feasible.

6(d) Is the proposed project reasonably necessary to discourage the Applicant from removing such other plant or facility to a location outside the State of New York?

Yes No If Yes, please explain briefly.

6(e) Will financing by the Agency result in the removal or abandonment of a plant or other facility of the applicant or any related entity presently located in another area of New York State?

Yes No

If Yes, is the proposed project reasonably necessary to preserve the competitive position of the Applicant in its respective industry? Yes No

If Yes, please provide a statement and evidence supporting the same. Include the name of all taxing jurisdictions in which the abandoned facility or plant lies, and whether Applicant has had any discussions with said taxing jurisdictions regarding the abandonment. Please provide as much detail as possible.

6(f) Has the Applicant or any related entity previously secured financial assistance in Oneida County (whether through the Agency, the Empire State Development Corporation, or any other entity)? Yes No

If Yes, please explain (indicate date of benefit, location of facility and outstanding balance).

6(g) Has the Applicant or any related entity secured financial assistance anywhere within the United States within the last 90 days or does the Applicant or any related entity anticipate receiving financial assistance within the next 90 days? Yes No

If Yes, please explain.

We have requested PILOT agreements for other projects across several counties in New York State.

6(h) Check all categories best describing the type of project for all end users at project site (you may check more than one; if checking more than one indicate percentage of square footage the use represents):

Please provide percentage of sq. footage for each use (if more than one category):

- | | |
|---|------------------------|
| <input type="checkbox"/> Manufacturing | <input type="text"/> % |
| <input type="checkbox"/> Industrial Assembly or Service | <input type="text"/> % |
| <input type="checkbox"/> Back office operations | <input type="text"/> % |
| <input type="checkbox"/> Research and Development | <input type="text"/> % |
| <input type="checkbox"/> Technology/Cybersecurity | <input type="text"/> % |
| <input type="checkbox"/> Warehousing | <input type="text"/> % |
| <input type="checkbox"/> Commercial or Recreational | <input type="text"/> % |
| <input type="checkbox"/> Retail | <input type="text"/> % |

- | | | |
|----------------------|--|------------------------------------|
| Add Housing Addendum | <input type="checkbox"/> Residential housing (specify) _____ | <input type="text"/> % |
| | <input type="checkbox"/> Pollution Control (specify) _____ | <input type="text"/> % |
| | <input type="checkbox"/> Environmental (e.g., Brownfield) (specify) _____ | <input type="text"/> % |
| Add Solar Addendum | <input checked="" type="checkbox"/> Other (specify ie; renewable energy) <u>Community Distributed Generation</u> | <input type="text" value="100"/> % |

6(i) Check all categories best describing the **scope of the project**:

- Acquisition of land
- Acquisition of existing building
- Renovations to existing building
- Construction of addition to existing building
- Demolition of existing building or part of building
- Construction of a new building
- Acquisition of machinery and/or equipment
- Installation of machinery and/or equipment
- Other (specify) Installation of community solar

6(j) Please indicate the financial assistance you are requesting of the Agency, and provide the estimated value of said assistance. Attach a sheet labeled Annual PILOT that shows the annual utilization of the Real Property Tax Abatement by year and by taxing jurisdiction (PLEASE CONSULT WITH IDA STAFF ON PILOT CALCULATIONS).

<u>Assistance Requested</u>	<u>Estimated Values</u>
<input checked="" type="checkbox"/> Real Property Tax Abatement (value of PILOT savings)	\$ <u>1,120,396</u>
<input type="checkbox"/> Mortgage Tax Exemption (.75%) \$ _____ Amount of mortgage: \$ _____	
<input type="checkbox"/> Sales and Use Tax Exemption ** (8.75%) \$ _____ (Not available for solar) Value of goods/services to be exempted from sales tax: \$ _____	
<input type="checkbox"/> Issuance by the Agency of Tax Exempt Bonds(bond dollar value)\$ _____	

**** TOTAL EXEMPTION ASSISTANCE REQUESTED: \$ 1,120,396**

Is the financial assistance requested by the Applicant consistent with the IDA's Uniform Tax Exemption Policy? Yes No

If No, please provide a written statement describing the financial assistance being requested and detailing the reasons the IDA should consider deviating from its Policy.

** Note that the estimate provided above will be provided to the New York State Department of Taxation and Finance. The Applicant acknowledges that the transaction documents will include a covenant by the Applicant that the estimate, above, represents the maximum amount of sales and use tax benefit currently authorized by the Agency with respect to this Application. The Agency may utilize the estimate, above, as well as the (9)proposed total Project Costs as contained within this Application, to determine the Financial Assistance that will be offered. It is the responsibility of the applicant to inform the IDA within 10 days if the project amount changes.

Part III: Facility Information

Attach copies of the most recent real property tax bills. Include copies for all taxing jurisdictions for the site/ facility that IDA assistance is being sought.

Facility (Physical Information) If multiple locations please provide information on all.

7(a) Street Address of Facility:

6821 Martin St.

7(b) City, Town and/or Village (list ALL incorporated municipalities):

Rome

7(c) School District:

Oriskany

7(d) For what purpose was the facility site most recently used (i.e., light manufacturing, heavy manufacturing, assembly, etc.)?

vacant

7(e) Zoning Classification of location of the project:

I-G General Industrial

7(f) Please describe in detail the facility to be acquired, constructed or renovated (including number of buildings, square footage, number of floors, type of construction,) and attach plot plans, photos or renderings, if available. If there are infrastructure improvements (water, sewer, gas, electrical, etc.) please provide details along with who will carry out those improvements and who will fund them. **Please be as specific as possible.**

BW Solar is proposing a 3.3MW (AC) solar power generation facility on Martin Street in Rome, New York. Approximately 21 acres of land will be used to harvest this solar energy, which will then be distributed via the grid and contribute to New York's renewable initiatives. 9,020 solar modules will accomplish the production and conversion of voltage respectively. When the project reaches the end of its operation, all associated equipment will be decommissioned, leaving the land viable for farming or any other intended use. Chain link fencing will enclose the entire solar array with 1 main gate for access.

7(g) Has construction or renovation commenced? Yes No

If Yes, please describe the work in detail that has been undertaken to date, including the date of commencement.

If No, indicate the estimated dates of commencement and completion:

Construction Commencement: Q1 2024

Construction completion: Q4 2024

7(h) Will the construction or operation of the facility or any activity which will occur at the site require any local ordinance or variance to be obtained or require a permit or prior approval of any state or federal agency or body (other than normal occupancy and/or construction permits)?

Yes No

If Yes, please describe.

Has the Project received site plan approval from the Planning Department?

Yes No N/A

If Yes, please provide the Agency with a copy of the planning department approval along with the related State Environmental Quality Review (SEQR) determination. If no, please provide the status of approval:

7(i) Will the project have a significant effect on the environment? Yes No

Important: please attach and sign Part 1 of either the the long or short Environmental Assessment Form to this Application.

7(j) What is the useful life of the facility? 40 years

7(k) Is the site in a former Empire Zone? Yes No

If Yes, which Empire Zone: _____

Is project located in a Federal HUB Zone or distressed area: Yes No
Provide detail.

ALL APPLICANTS MUST ANSWER PART IV-8(a)

Part IV: Retail Project Questionnaire

To ensure compliance with Section 862 of the New York General Municipal Law, the Agency requires additional information if the proposed Project is one where customers personally visit the Project site to undertake either a retail sale transaction or to purchase services.

8(a). Will any portion of the project (including that portion of the cost to be financed from equity or other sources) consist of facilities or property that are or will be primarily used in making sales of goods or services to customers who personally visit the project site?

Required Yes or No **If the answer is YES, please continue below.**
If the answer is NO, proceed to Section Part V - Facility (Legal Info)

For purposes of Question A, the term "retail sales" means (i) sales by a registered vendor under Article 28 of the Tax Law of the State of New York (the "Tax Law") primarily engaged in the retail sale of tangible personal property (as defined in Section 1101(b)(4)(i) of the Tax Law), or (ii) sales of a service to customers who personally visit the Project.

8(b). What percentage of the cost of the Project will be expended on such facilities or property primarily used in making sales of goods or services to customers who personally visit the project? 0.00 %. **If the answer is less than 33% do not complete the remainder of this retail determination page and proceed to next section, Part V Facility (Pg 13)**

*** If the answer to A above is Yes AND the answer to B above is greater than 33.33%, indicate which of the following questions below apply to the project:**

1. Will the project be operated by a not-for-profit corporation Yes No

2. Is the Project location or facility likely to attract a significant number of visitors from outside Oneida County?

Yes No

If yes, please provide a third party market analysis or other documentation supporting your response.

3. Is the predominant purpose of the project to make available goods or services which would not, but for the project, be reasonably accessible to the residents of the municipality within which the proposed project would be located because of a lack of reasonably accessible retail trade facilities offering such goods or services?

Yes No

If yes, please provide a third party market analysis that demonstrates that a majority of the project's customers are expected to come from outside of Oneida County and the project will not directly compete with existing businesses located in Oneida County.

Part V: Facility (Legal Information)

9(a) With respect to the **present owner** of the land or facility, please give the following information and provide a brief statement regarding the status of the acquisition.

(Note: the present owner is not necessarily the user of the facility, but that party which holds legal title to the facility.)

Legal Name: Teresa Campanaro
Address: 6821 Martin Street
City of Rome, NY 1440
Telephone: 478.286.1384
Balance of Mortgage: N/A
Holder of Mortgage: Teresa Campanaro

If the Applicant is not the present owner of the facility, please attach any written agreements and contracts concerning the acquisition of the real property and/or equipment.

Memo of Option to Lease attached. Lease Option Agreement.

9(b) Is there a legal relationship, directly or indirectly, by virtue of common control or through related persons, between the Applicant and the present owner of the facility?
 Yes No. **If Yes**, please explain.

9(c) Will a related real estate holding company, partnership or other entity, be involved in the ownership structure of the transaction?
 Yes No. **If Yes**, please explain.

9(d) Will the title owner of the facility/property also be the user of the facility?
 Yes No **If Yes**, please explain.

9(e) Is the Applicant currently a tenant in the facility? Yes No

9(f) Are you planning to use the entire proposed facility?
 Yes No

If No, please give the following information with respect to tenant(s) which will remain in the facility after the completion of the project, including the square footage the Applicant will occupy:

<u>Name of Tenant</u>	<u>Floors Occupied</u>	<u>Sq. Ft. Occupied</u>	<u>Nature of Business</u>

9(g) Are any of the tenants related to the owner of the facility?
 Yes No If Yes, please explain.

9(h) Will there be any other users utilizing the facility?
 Yes No
If Yes, please explain. Provide detail of the contractual arrangement including any financial exchange for the use of the site or property.

Part VI: Equipment

10(a) List the principal items or categories of equipment to be acquired as part of the project. If you are requesting sales tax exemption it is important to be as detailed as possible. (If a complete list is not available at time of application, as soon as one is available but prior to final authorizing resolution, please submit a detailed inventory of said equipment to be covered.) Attach a sheet if needed.

Solar Modules, Inverters, Racking, Transformers, Fencing, Electrical Equipment (AC Combiners, DC Combiners, Monitoring Equipment, Electrical Wiring, Electrical Poles), Landscaping (Trees, Bushes, Grass), Concrete, Crushed Gravel Aggregate. ** Full list to be provided when final drawings and procurement plans are created **

10(b) Please provide a brief description of any equipment which has already been purchased or ordered, attach all invoices and purchase orders, list amounts paid and dates of expected delivery. Attach a sheet if needed.

N/A

10(c) What is the useful life of the equipment? 40 years

Part VII: Employment Information

"FTE" shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the company.

11(a) Estimate how many construction jobs will be created or retained as a result of this project.

11(b) Will the project preserve permanent, private sector jobs or increase the overall number of permanent, private sector jobs in the State of New York?

Yes No **If Yes**, explain below.

11(c) Have you experienced any employment changes (+ or -) in the last three (3) years?

Yes No **If Yes**, explain below.

11(d) Job Information related to project ***

Estimate below how many jobs will be created and retained as a result of this project, if OCIDA assistance is granted. **PLEASE MAKE SURE TOTAL PART-TIME EMPLOYEES ARE TURNED INTO FULL-TIME EQUIVALENTS (FTE) for Line B. - See Pg. 17.**

Number of Jobs BEFORE Project	Location 1	Location 2	Location 3	Location 4	Location 5	
Address in NYS						Total
Full-Time Company						
Full-Time Independent Contractors						
Full-Time Leased						
A. Total Full-Time BEFORE						
Part-Time Company						
Part-Time Independent Contractors						
Part-Time Leased						
B. Total FTE Part-Timers BEFORE						
C. Total FTE BEFORE*						

*For Total FTE BEFORE add full-time employees (line A) plus part-time employees that have been converted to FTE (line B).

	Number of Jobs AFTER Project (within 3 years of project completion)	Location 1	Location 2	Location 3	Location 4	Location 5	Total
	Full-time Company						
	Full-Time Independent Contractors						
	Full-Time Leased						
A.	Total Full-Time AFTER						
	Part-Time Company						
	Part-Time Independent Contractors						
	Part-Time Leased						
B.	Total FTE Part-Timers AFTER						
C.	Total FTE AFTER *						

**For Total FTE AFTER add full-time employees (line A) plus part-time employees that have been converted to FTE (line B).*

	Estimate the number of residents from the Labor Market Area** in which the Project is located that will fill the <u>JOBS CREATED</u> within three years of project completion	Location 1	Location 2	Location 3	Location 4	Location 5	Total
A.	Full-Time						
B.	FTE Part-Timers						
C.	Total AFTER						

**** Labor Market Area includes Oneida, Lewis, Herkimer, and Madison Counties**

Provide Any Notes To Job Information Below

As much as possible, BW will strive to hire local labor and materials that have the appropriate train and qualifications.

SALARY AND BENEFITS	Retained Jobs		Created Jobs	
	Average Annual Salary per employee	Average Fringe Benefits (as a percentage of wages)	Average Annual Salary per employee	Average Fringe Benefits (as a percentage of wages)
Management	\$	%	\$	%
Administrative	\$	%	\$	%
Production	\$	%	\$	%
Independent Contractor	\$	%	\$	%
Other	\$	%	\$	%
Overall Weighted Average	\$	%	\$	%

*** By statute, Agency staff must project the number of Full-Time Jobs that would be retained and created if the request for Financial Assistance is granted. "FTE" shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the company.

11(e) Please list NAICS codes for the jobs affiliated with this project:

Part VIII: Estimated Project Cost and Financing

12(a) List the costs necessary for preparing the facility.

LAND Acquisition	\$	(If lease value use OTHER below)
Existing Building(s) ACQUISITION	\$ 0	
Existing Building(s) RENOVATION	\$ 0	
NEW Building(s) CONSTRUCTION	\$ 2,486,480	
Site preparation/parking lot construction	\$ 5,000	
Machinery & Equipment that is TAXABLE	\$ 850,000	
Machinery & Equipment that is TAX-EXEMPT	\$ 1,281,000	
Furniture & Fixtures	\$ 0	
Installation costs	\$ 467,173	
Architectural & Engineering	\$ 119,757	
Legal Fees (applicant, IDA, bank, other counsel)	\$ 10,000	
Financial (all costs related to project financing)*	\$	
Permits (describe below)	\$	
Other (describe below) ie: solar decommissioning expense)	\$ 159,000	

Other:	Cost:	Subtotal \$
1. Decommissioning Cost	\$ 159,000	5,378,410
2. Land Lease (in Installation Cost)		Agency Fee ¹ \$ 26,892
3.		
4.		
5.		Total Project Cost \$ 5,405,302

* Bank fees, title insurance, appraisals, environmental reviews, etc.

¹ See Attached Fee Schedule (Page 22) for Agency Fee amount to be placed on this line.

Permit/Other Information

12(b) Has the Applicant contacted any bank, financial institution or private investor with respect to financing the proposed project? Yes No **If Yes**, please provide details below.

12(c) Has the Applicant received a commitment letter for said financing? **If Yes**, please provide a copy along with this application. Yes No

12(d) Sources of Funds for Project Costs

Bank Financing: ----- \$ 2,460,415

Equity (excluding equity that is attributed to grants/tax credits) -- \$ 1,765,071

Tax Exempt Bond Issuance (if applicable) ----- \$ _____

Taxable Bond Issuance (if applicable) ----- \$ _____

Public Sources (Include sum total of all state and federal tax credits and grants) Break out individually below.----- \$ 1,179,816

Identify each Public state and federal grant/credit:

Comments:

Source	<u>NYSERDA</u>	\$	<u>1,179,816</u>
Source		\$	
Source		\$	
Source		\$	

Total Sources of Funds for Project Costs: \$ 5,405,302

Part IX: Real Estate Taxes

13(a) For each tax parcel which comprises the facility, and for which assistance is being sought, please provide the following information using figures from the most recent tax year. If an increase in the assessment is anticipated due to the proposed project, please indicate the new estimated assessment amount in the **POST- PROJECT** column. Attach copies of the most recent tax bills for all jurisdictions.

Tax Map Parcel #	Current Land Assessment	Current Building Assessment	Current Total Assessment	Current Total Taxes Amount (\$)	Estimated Post-Project Assessment
259.001-0001-002	\$ 39,000		\$ 41,000		

13(b) Will the entirety of each tax parcel be subject to the PILOT? YES NO

13(c) If the entirety of each parcel will not be subject to the PILOT, will the municipality require a subdivision? YES NO

***If a subdivision is required, it is the responsibility of the Applicant to complete subdivision approval prior to commencement of the PILOT Agreement, and to provide the Agency with the tax parcel number(s) assigned.**

13(d) Address of Receiver of Town and/or Village Taxes (include all jurisdictions):

City of Rome, NY

198 North Washington St.

Rome, NY 13440

13(e) Address of Receiver of School Taxes:

Rome City School District

409 Bell Rd Rome, NY 13440-5243

13(f) Has the current property owner or user been granted an Ag-District exemption on the tax map parcel anytime during the past 4 years?

Yes No

If Yes explain below.

13(g) Please consult with Agency staff to complete a Cost/Benefit Analysis form to attach to this Application.

Use space below for additional information

NYS SEQRA Environmental Review

- The applicant must complete, sign and return to the IDA **either** the Short Form Environmental Assessment Form (SEAF) **or** the Full Environmental Assessment Form (FEAF). See the NYS DEC website for the most current versions of these documents.

<https://www.dec.ny.gov/permits/6191.html>

- To determine which EAF form is appropriate for the project, the applicant should consult with its engineer or legal counsel.
- It is the IDA's strong preference that the municipality that governs the jurisdiction where the project is located (e.g., a Planning Board, Zoning Board or other supervisory board) serve as lead agency for the SEQRA review.
- In limited cases, the IDA will act as lead agency, but it may lead to additional cost to the applicant if a review is required to make a determination of environmental impact.
- If another public body is serving as lead agency for the SEQRA review the applicant should provide the IDA with a signed Part 2 (and Part 3 if using the Long Form) and any minutes of meetings that detail the lead agency's determination.
- The IDA cannot grant any financial assistance until the SEQRA review process is complete.

Agency Fee Schedule

Commitment Fee: \$1,000 – due following the initial inducement but prior to scheduling of the public hearing; this amount is non-refundable if the applicant fails to close on the project before the IDA. Upon closing with the IDA this amount is applied to the closing fees.

Bond Fees: ½ of 1% of total bond amount

IDA Agency Fee: PILOT, Mortgage Recording Exemption, Sales Tax Exemption:

- Up to a \$1.0 Million project - \$5,000
- Above \$1.0 Million project up to \$10.0 Million project – ½ of 1% of total project cost.
- Above \$10.0 Million project – ½ of 1% of total project cost up to \$10.0 Million plus incremental increase of ¼ of 1% of total project above \$10.0 Million.
- Any previously induced solar or renewable energy projects that have not yet proceeded to a final authorizing resolution, and are asking for an increase in benefits, will be subject to an Agency fee of one and one-half times the Agency's normal fee.

Transaction Counsel/Agency Counsel fee:

Set by Bond/Transaction Counsel based upon the nature and complexity of the transaction. This applies to bond and non-bond transactions (leasebacks, sale-leasebacks, etc).

Transaction Counsel/Agency Counsel fees for bond transactions typically will not exceed 2% of the bond amount or project costs. Transaction Counsel/Agency Counsel fees for a sale-leaseback/lease-leaseback transaction are typically \$8,500 to \$10,000 if no commercial financing is involved or \$10,000 to \$12,000 if commercial financing is involved. You will receive an engagement letter with a quote based upon the scope of your project.

Annual Fee:

For the term in which the property remains in the IDA's name, an annual lease payment is due in the amount of \$750 (Solar Projects: \$2,000). The first payment is due at closing and subsequent payments are due each January 1. For annual fees not paid and delinquent, a late charge of \$50 per month will be levied until such time the fee plus late charges are paid.

Other fees:

If Applicant requests the IDA enter into subsequent transactions following closing (i.e., a facility refinance), the IDA will charge a closing fee equal to 1/8 of one percent of the total reissuance, redemption, new or revised mortgage, refinancing, spreading agreement or other transaction with a minimum payment due of \$500. Applicant will also be responsible to pay any legal fees and any bank or financial institution fees the IDA incurs in connection with said transaction, throughout the term of the Agency's involvement with the facility.

REPRESENTATIONS AND CERTIFICATION BY APPLICANT

The undersigned requests that this Application be submitted for review to the Oneida County Industrial Development Agency (the "Agency") and its Board of Directors.

Approval of the Application can be granted solely by this Agency's Board of Directors. The undersigned acknowledges that Applicant shall be responsible for all costs incurred by the Agency and its counsel in connection with the attendant negotiations whether or not the transaction is carried to a successful conclusion.

The Applicant further understands and agrees with the Agency as follows:

- 1. Annual Sales Tax Filings.** In accordance with Section 858-b(2) of the New York General Municipal Law, the Applicant understands and agrees that, if the Project receives any sales tax exemptions as part of the Financial Assistance from the Agency, in accordance with Section 874(8) of the General Municipal Law, the Applicant agrees to file, or cause to be filed, with the New York State Department of Taxation and Finance, the annual form prescribed by the Department of Taxation and Finance, describing the value of all sales tax exemptions claimed by the Applicant and all consultants or subcontractors retained by the Applicant.
- 2. Annual Employment, Tax Exemption & Bond Status Reports.** The Applicant understands and agrees that, if the Project receives any Financial Assistance from the Agency, the Applicant agrees to file, or cause to be filed, with the Agency, on an annual basis, reports regarding the number of people employed at the project site as well as tax exemption benefits received with the action of the Agency. For Applicants not responding to the Agency's request for reports by the stated due date, a \$500 late fee will be charged to the Applicant for each 30-day period the report is late beyond the due date, up until the time the report is submitted. Failure to provide such reports as provided in the transaction documents will be an Event of Default under the Lease (or Leaseback) Agreement between the Agency and Applicant. In addition, a Notice of Failure to provide the Agency with an Annual Employment, Tax Exemption & Bond Status Report may be reported to Agency board members, said report being an agenda item subject to the Open Meetings Law.
- 3. Absence of Conflict of Interest.** The Applicant has consulted the Agency website of the list of the Agency members, officers and employees of the Agency. No member, officer, or employee of the Agency has an interest, whether direct or indirect, in any transaction contemplated by this Application, except as herein after described (if none, state "none"):
- 4. Hold Harmless.** Applicant hereby releases the Agency and its members, officers, servants, agents and employees from, agrees that the Agency shall not be liable for and agrees to indemnify, defend and hold the Agency harmless from and against any and all liability arising from or expense incurred by (A) the Agency's examination and processing of, and action pursuant to or upon, the attached Application, regardless of whether or not the Application or the Project described therein or the tax exemptions and other assistance requested therein are favorably acted upon by the Agency, (B) the Agency's acquisition, construction and/or installation of the Project described therein and (C) any further action taken by the Agency with respect to the Project; including without limiting the generality of the foregoing, all causes of action and attorneys' fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing. If, for any reason, the Applicant fails to conclude or consummate necessary negotiations, or fails, within a reasonable or specified period of time, to take reasonable, proper or requested action, or withdraws, abandons, cancels or neglects the Application, or if the Agency or the Applicant are unable to reach final

agreement with respect to the Project, then, and in the event, upon presentation of an invoice itemizing the same, the Applicant shall pay to the Agency, its agents or assigns, all costs incurred by the Agency in the processing of the Application, including attorneys' fees, if any.

5. The Applicant acknowledges that the Agency has disclosed that the actions and activities of the Agency are subject to the Public Authorities Accountability Act signed into law January 13, 2006 as Chapter 766 of the 2005 Laws of the State of New York.
6. The Applicant acknowledges that the Agency is subject to New York State's Freedom of Information Law (FOIL). **Applicant understands that all Project information and records related to this application are potentially subject to disclosure under FOIL subject to limited statutory exclusions.**
7. The Applicant acknowledges that it has been provided with a copy of the Agency's recapture policy (the "Recapture Policy"). The Applicant covenants and agrees that it fully understands that the Recapture Policy is applicable to the Project that is the subject of this Application, and that the Agency will implement the Recapture Policy if and when it is so required to do so. The Applicant further covenants and agrees that its Project is potentially subject to termination of Agency financial assistance and/or recapture of Agency financial assistance so provided and/or previously granted.
8. The Applicant understands and agrees that the provisions of Section 862(1) of the New York General Municipal Law, as provided below, will not be violated if Financial Assistance is provided for the proposed Project:

§ 862. Restrictions on funds of the agency. (1) No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

9. The Applicant confirms and acknowledges that the owner, occupant, or operator receiving Financial Assistance for the proposed Project is in substantial compliance with applicable local, state and federal tax, worker protection and environmental laws, rules and regulations.
10. The Applicant confirms and acknowledges that the submission of any knowingly false or knowingly misleading information may lead to the immediate termination of any Financial Assistance and the reimbursement of an amount equal to all or part of any tax exemption claimed by reason of the Agency's involvement the Project.
11. The Applicant confirms and hereby acknowledges that as of the date of this Application, the Applicant is in substantial compliance with all provisions of Article 18-A of the New York General Municipal Law, including, but not limited to, the provision of Section 859-a and Section 862(1) of the New York General Municipal Law.
12. The Applicant and the individual executing this Application on behalf of the Applicant acknowledge that the Agency will rely on the representations made herein when acting on this Application and hereby represent that the statements made herein do not contain any untrue statement of a material

fact and do not omit to state a material fact necessary to make the statements contained herein not misleading.

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

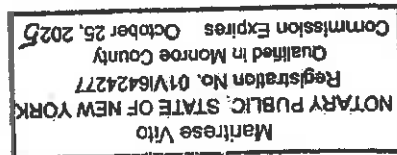
Daniel Huntington, being first duly sworn, deposes and says:

1. That I am the senior Developer (Corporate Office) of BW solar Holding Inc. (Applicant) and that I am duly authorized on behalf of the Applicant to bind the Applicant.
2. That I have read the attached Application, I know the contents thereof, and that to the best of my knowledge and belief, this Application and the contents of this Application are true, accurate and complete.

Daniel Huntington
(Signature of Officer)

Subscribed and affirmed to me under penalties of perjury this 6 day of September, 2023.

Mantrese Vito
(Notary Public)



If the application has been completed by or in part by other than the person signing this application for the applicant please indicate who and in what capacity:

By: _____

Name: _____

Title: _____

Date: _____

Please submit the signed and notarized completed application along with payment of a non-refundable **\$500 Application Fee** and a **\$1,000 Commitment Fee** (will be applied to final closing costs) to the **Oneida County Industrial Development Agency**, 584 Phoenix Drive, Rome NY 13441-1405, **within 14 days prior to the OCIDA Board of Directors meeting at which you want the Application to be included on the Agenda**. Wire transfer and ACH payments are acceptable but all related fees incurred by the Agency are payable by the Applicant. It is advised that an electronic version of the application accompany the original application via hard copy or e-mail. An electronic version of the application must accompany the original application via physical media or e-mail.

Anthony J. Picente Jr.
County Executive

Shawna M. Papale Executive
Director/Secretary

Jennifer Waters
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

OCIDA

584 Phoenix Route, New York 13441-4105
Ph: (315) 338-0393, fax (315) 338-5694
info@mvedge.org www.oneidacountyida.org



David B. Grow
Chair

L. Michael Fitzgerald
Vice-Chair

Mary Faith Messenger
Treasurer

Ferris Betrus
Kirk Hinman

Eugene Quadraro
Steven Zogby

MEMORANDUM TO COMPANIES SALE-LEASEBACK TRANSACTIONS

1. When a Company decides that a sale-leaseback transaction may suit its particular needs, the first order of business is for the Company to complete an Application for Financial Assistance, together with an Environmental Impact Questionnaire, Cost/Benefit Analysis and Statement of the Project Applicant (referred to collectively as the "Application"). The Application is submitted to Agency Counsel for a formal decision as to whether or not the project qualifies as a "project," as defined by law.
2. No action can be taken until the Application is completed and submitted to the Agency and approved by Agency Counsel.
3. Upon completion of the Application and approval by Agency Counsel, the Agency will meet for the purpose of adopting an Inducement Resolution and reviewing the Environmental Impact Questionnaire, Cost/Benefit Analysis and Statement of the Project Applicant. At this time a Resolution may be adopted by the Agency concerning the environmental impact. **Please note that the Agency is subject to the Open Meetings Law, and all meetings will be open to the public, including news media.**
4. The Company is expected and encouraged to have its own counsel. The Company is also required to reimburse the Agency for all legal expenses incurred in furtherance of a proposed transaction, whether or not that transaction is completed. This includes all fees and disbursements of Agency Counsel.
5. The Company will be asked to sign an Inducement Agreement, which sets forth the terms of the proposed transaction and the obligations of the parties in furtherance of the same. The Company will also be asked to provide Agency Counsel with certain

information concerning the formation of the corporation or partnership, a survey of the property, title insurance, insurance certificates, etc. before the transaction can close. All matters in connection with the transfer of the real estate will be handled primarily by Company Counsel with the assistance of Agency Counsel.

6. A Public Hearing may be required in accordance with the New York State General Municipal Law, after which the Oneida County Executive must approve or disapprove the issue. Notice of the Public Hearing must be published at least thirty (30) days prior to the Hearing in the newspaper where the project is located. The highest elected official of each affected taxing jurisdiction must also receive thirty day written notice of the Hearing.

No financial benefits may be granted by the Agency to the Company until after the Public Hearing if required.

7. Agency Counsel has certain requirements as to those documents which must be included in the transaction and the content thereof, including but not limited to requiring environmental impact surveys, environmental indemnifications and general indemnifications.
8. The fee schedule is attached, covering the Agency fee, the Agency's work with respect to the project and the work of Agency Counsel.

The estimated fees for Agency Counsel may vary depending on the nature of the project. The initial fee quote assumes that the transaction closes within ninety (90) days from the date of the inducement, that there will be no unusual questions of law or prolonged negotiations regarding the documents, and that the involvement or assistance from other agencies will not require substantial modifications to the typical structure and documentation of similar transactions. The fee quote also assumes that Agency Counsel will not be called upon to coordinate with any lender, as the Agency is not issuing bonds. The fee quote assumes that closing will take place by mail and will not necessitate attending meetings with the Company or any lender.

9. Once the terms and conditions of the transaction are fairly well established, Agency Counsel prepares preliminary drafts of the financing documents and distributes them to all parties for review and comment. Comments accepted by all counsel will result in redrafting of documents. The parties establish a mutually agreeable closing date, and final documents for execution are prepared.

10. The Agency then conducts a meeting whereby it adopts an Authorizing Resolution, under which the Agency approves of the form of the documents and authorizes the Chairman to execute the same.
11. The closing takes place.
12. Some of the benefits available to a company under a sale-leaseback transaction are as follows:
 - ⇒ Exemption from New York State mortgage recording tax
 - ⇒ Exemption from New York State sales tax for materials used in construction
 - ⇒ Real property tax abatement on the value added to the project (for more information, please see the Uniform Tax Exemption Policy enclosed herewith)

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**MEMORANDUM TO APPLICANTS FINANCING AN IDA PROJECT
THROUGH A COMMERCIAL LENDER**

We have found it helpful to outline at the onset of a transaction the basic structure of financing when an industrial development agency (“IDA”) has a fee or leasehold interest in a property and is party to a mortgage or other financing instrument. **Please give a copy of this memorandum to your lender as early in the financing process as possible.**

An IDA is party to a financing instrument purely as a conduit for financial assistance (in the case of granting exemptions from mortgage recording tax) and to grant its interest in the facility to the lender. To preserve the passive nature of its role, the IDA cannot assume any obligations or make any representations that a traditional Borrower would make to a lender. It has been our experience that the easiest way to accomplish this is to define the Borrower as the “Borrower,” define the IDA as the “Agency,” and only include the Agency in the granting clause and with respect to the assignment of rents, inasmuch as those are the only reasons that the Agency is party to this document.

Furthermore, because PILOT Payments are contractual obligations and are not given the same high priority as tax payments, we crafted some language that will restore the taxing jurisdictions to the same position they would have been but not for the IDA involvement in the project. While it is not disputed that is an equitable arrangement, certain lenders have expressed concern that, because the requirement to pay PILOT Payments is contained in a private contract, there is no prescribed process to avoid significant delinquencies as there is under a tax foreclosure. It has been our experience the easiest way to accomplish this is for a lender to escrow PILOT Payments so it has the assurance that payments are made in a timely manner. If a lender does not wish to escrow PILOT Payments, an alternative is for the IDA to record a PILOT Mortgage that would be given first priority over the lender’s mortgage, similar to the priority taxes have.

Below are certain provisions we require be incorporated into each financing document to which the IDA is a party (please modify capitalized terms accordingly):

1. AGENCY PROVISIONS.

a. Agency makes no covenants other than to mortgage all of its interest in the Premises excepting its Unassigned Rights (as said term is defined in the Leaseback Agreement).

b. **NO RECOURSE AGAINST AGENCY:** Lender agrees that Lender will not look to the Agency or any principal, member, director, officer or employee of the Agency with respect to the Indebtedness or any covenant, stipulation, promise, agreement or obligation contained in this Mortgage. In enforcing its rights and remedies under this Mortgage, Lender will look solely to the Premises for the payment of the Indebtedness and for the performance of the provisions hereof. Lender will not seek a deficiency or other money judgment against the Agency or any principal, member, director, officer or employee of the Agency and will not institute any separate action against the Agency by reason of any default which may occur in the performance of any of the terms and conditions of any documents evidencing the Indebtedness.

c. **HOLD HARMLESS:** Borrower and Lender agree that the Agency, its directors, members, officers, agents (except the Borrower) and employees shall not be liable for and Borrower agrees to defend, indemnify, release and hold the Agency, its directors, members, officers, agents (except the Borrower) and employees harmless from and against any and all (i) liability for loss or damage to Property or injury to or death of any and all Persons that may be occasioned by, directly or indirectly, any

cause whatsoever pertaining to the Facility or arising by reason of or in connection with the occupation or the use thereof or the presence of any Person or Property on, in or about the Facility or the Land or (ii) liability arising from or expense incurred by the Agency's financing, acquiring, constructing, renovating, equipping, owning and leasing of the Facility, including without limiting the generality of the foregoing, all claims arising from the breach by the Borrower of any of their respective covenants contained herein and all causes of action and attorneys' fees and any other expenses incurred in defending any claims, suits or actions which may arise as a result of any of the foregoing, provided that any such losses, damages, liabilities or expenses of the Agency are not incurred or do not result from the gross negligence or intentional or willful wrongdoing of the Agency, or any of its directors, members, agents (except the Borrower) or employees. The foregoing indemnities shall apply notwithstanding the fault or negligence in part of the Agency or any of its members, directors, officers, agents or employees and irrespective of the breach of a statutory obligation or the application of any rule of comparative or apportioned liability.

d. SPECIAL OBLIGATION. The obligations of the Agency under the Mortgage and Financing Documents constitute a special obligation of the Agency, and all charges payable pursuant to or expenses or liabilities incurred thereunder shall be payable solely out of the revenues and other moneys of the Agency derived and to be derived from the leasing of the Facility, any sale or other disposition of the Equipment and as otherwise provided in the Authorizing Resolution, the Leaseback Agreement and the PILOT Agreement. Neither the members, officers, agents (except the Borrower) or employees of the Agency, nor any person executing the Mortgage and Financing Documents on behalf of the Agency, shall be liable personally or be subject to any personal liability or accountability by reason of the leasing, construction, renovation, equipping or operation of the Facility. The obligations of the Agency under the Financing Documents are not and shall not be an obligation of the State or any municipality of the State and neither the State nor any such municipality (including, without limitation, the County of Oneida), shall be liable thereon.

e. SUBORDINATION TO PILOT AGREEMENT: This Mortgage shall be subject and subordinate to any PILOT Agreement between the Borrower and the Agency with respect to the payments in lieu of taxes assessed or imposed upon the Premises, and by accepting this Mortgage, Lender acknowledges and agrees that such PILOT payments shall have the same force, priority and effect as a real property tax lien under New York State law against the Premises.

If a lender chooses to escrow PILOT Payments, we will incorporate the following provisions into the Leaseback (or Lease) Agreement:

Section 9.13 Subordination to Mortgage. This Leaseback Agreement and the rights of the Company and the Agency hereunder (other than with respect to the Unassigned Rights) are subject and subordinate to the Lien of the Mortgage, and all extensions, renewals or amendments thereof. The subordination of this Leaseback Agreement to the Mortgage shall be automatic, without execution of any further subordination agreement by the Company or the Agency. Nonetheless, if the Bank requires a further written subordination agreement, the Company and the Agency hereby agree to execute, acknowledge and deliver the same.

Section 9.14 Rights of Bank.

(a) Bank is hereby given the right by the Agency, in addition to any other rights herein granted, without any requirement to obtain the Agency's consent, to mortgage the mortgagors' respective interests in the Facility and, in the case of the Company, to assign and grant a security interest in the Company's rights under the Company Documents as collateral security for its obligations to the Bank, upon the condition that all rights acquired by Bank shall be subject to all rights and interests of the

Agency herein and in the other Company Documents, none of which covenants, conditions or restrictions is or shall be waived by the Agency by reason of this right to mortgage or grant a security interest in the Facility and the Company Documents, including Unassigned Rights.

(b) There shall be no renewal, cancellation, surrender, acceptance of surrender, material amendment or material modification of this Leaseback Agreement or any other Company Document by joint action of the Agency and the Company alone, without, in each case, the prior consent in writing of Bank, nor shall any merger result from the acquisition by, or devolution upon, any one entity of any fee and/or leasehold estates or other lesser estates in the Facility. Failure of the Bank to consent to a modification of this Leaseback Agreement by the Agency shall constitute an Event of Default.

(c) If the Agency serves a notice of default upon the Company, it shall also serve a copy of such notice upon Bank at the address set forth in Section 9.1.

(d) In the event of any default by the Company under this Leaseback Agreement or any other Company Document, the Bank shall have fifteen (15) days for a monetary default and thirty (30) days in the case of any other default, after notice to the Company and the Bank of such default to cure or to cause to be cured the default complained of and the Agency shall accept such performance by or at the instigation of Bank as if same had been done by the Company. The Agency in its sole discretion will determine whether such action by the Bank amounts to a cure.

(e) Except where Bank or its designee or nominee has succeeded to the interest of the Company in the Facility, no liability for any payments to be made pursuant to this Agreement or the performance of any of the Company's covenants and agreements under this Agreement shall attach to or be imposed upon the Bank, and if the Bank or its nominee or designee succeeds to the interest of the Company in the Project, all of the obligations and liabilities of the Bank or its nominee or designee shall be limited to such entity's interest in the Facility and shall cease and terminate upon assignment of this Leaseback Agreement by the Bank; provided however, that the Bank or its nominee or designee shall pay all delinquent PILOT Payments, if any, prior to said assignment.

(g) Notwithstanding any provision of this Leaseback Agreement or any other Company Document to the contrary, foreclosure of a mortgage or any sale of the Company's interest in this Leaseback Agreement and/or the Facility in connection with a foreclosure, whether by judicial proceedings, or any conveyance of the Company's interest in this Agreement and/or the Facility to Bank by virtue of or in lieu of foreclosure or other appropriate proceedings, or any conveyance of the Company's interest in this Leaseback Agreement and/or the Facility by Bank shall not require the consent or approval of the Agency and failure to obtain the Agency's consent shall not be a default or Event of Default hereunder.

**Oneida County Industrial Development Agency Recapture Policy
(Effective April 25, 2017)**

DEFINITIONS:

"Company"	is the entity that applied for and received a benefit from the Agency.
"Agency"	is the Oneida County Industrial Development Agency.
"AER"	is the Company's annual report of employment required to be provided to the Agency.
"Employment Obligation Term"	shall mean the period during which the Company is receiving a benefit in the form of lower payment in lieu of taxes than their real estate taxes would be.
"Employment Obligation"	shall mean the number of FTEs employed by the Company in Oneida County and selected by the Agency as the Company's obligation.
"FTE"	shall mean a full time employee that has a minimum of thirty-five (35) scheduled hours per week, or any combination of two or more part-time employees that work a minimum of fifteen (15) scheduled hours per week, when combined together, constitute the equivalent of a minimum of thirty-five (35) scheduled hours per week, and whose workplace location is the project facility. For this purpose an employee shall include a leased employee regularly retained by the Company.
"Benefit"	shall mean the amount the Company saved by making payments in lieu of real property taxes in a particular year. For example, if a Company's PILOT payment is equal to 75% of normal real property taxes, then the Company's Benefit for that year would be an amount equal to 25% of normal real property taxes.
"Per Employee Amount"	shall mean an amount equal to the Benefit for the year after the year of the Shortfall divided by the "Employment Obligation".
"Shortfall"	shall mean the difference between the Employment Obligation and the actual number of FTEs per the AER for the applicable year.
"Major Shortfall"	shall mean having FTEs that are less than 50% of the Employment Obligation.
"Minimum Standard"	shall mean a Company whose AER shows that they are short of meeting its Employment Obligation by 20%.
"Initial Benefit"	shall be the amount of savings the Company received through the Agency, in the form of Mortgage Recording Tax and New York State Sales Tax.
"Cure Period"	shall mean the period ending June 30 th of the year following the Major Shortfall.

1. **Job Creation and Retention Obligations.**

After the expiration of the Employment Obligation Term, the Company shall have no further obligation with respect to the Employment Obligation and shall not be liable for any of the payments described below.

The failure of the Company to satisfy the Employment Obligation can subject the Company to payments to the Agency. The Company shall be required to make payments if it fails to attain the Minimum Standard.

If the Company falls below the Minimum Standard, the Agency will notify the Company in writing of the Agency's intention to recapture Financial Assistance. The Company will have thirty (30) days to respond to the letter and may include a request to appear before the Agency. The Agency will determine, in its sole discretion, if a valid exemption exists and potentially reduce the remedies described below.

2. **Projects with less than Ten Years Employment Obligation Term.**

(a) **Shortfall Payments.**

- (1) If, during the first three (3) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall and then multiplied by (c) 1.5.
- (2) If, after the first (3) years, of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall.

(b) **Major Shortfall Payment.**

- (1) If a Company shall incur a Major Shortfall; then, the Company shall pay to the Agency as an additional one-time payment an amount as set forth in the schedule below (such payment shall be referred to as the "Major Shortfall Payment").

<u>Major Shortfall Occurs:</u>	<u>Percentage of Initial Benefit</u>
Year 1	100%
Year 2	80%
Year 3	60%
Year 4	40%
Any Subsequent Year	20%

- (2) Notwithstanding any of the foregoing, the Company shall not be liable for a Major Shortfall Payment unless the number of FTEs remains at less than 65% of the Employment Obligation at the expiration of a Cure Period. The Company shall have the opportunity at any time before the expiration of a Cure Period to provide additional information to the Agency regarding the Major Shortfall, and to request a waiver or amendment of this provision.

- (3) Notwithstanding any of the foregoing, a Major Shortfall shall not apply where the Shortfall is a result of a major casualty to or condemnation of the facility. In the event of such major casualty or condemnation, the Company shall have no obligation to pay the Major Shortfall Payment.
- (4) Qualification for a waiver of either (2) or (3) above shall be at the sole discretion of the Agency.

3. Projects with Ten Years or Longer Employment Obligation Term.

(a) Shortfall Payments.

- (1) If, during the first five (5) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall and then multiplied by (c) 1.5.
- (2) If, after the first five (5) years of the Employment Obligation Term a Company fails to achieve the Minimum Standard, then the Company shall pay to the Agency an amount equal to (a) the Per Employee Amount multiplied by (b) the Shortfall.

(b) Major Shortfall Payment.

- (1) If a Company shall incur a Major Shortfall, then the Company shall pay to the Agency as an additional one-time payment an amount as set forth in the schedule below.

<u>Major Shortfall Occurs:</u>	<u>Percentage of Initial Benefit</u>
Year 1	100%
Year 2	90%
Year 3	80%
Year 4	70%
Year 5	60%
Year 6	50%
Year 7	45%
Year 8	40%
Year 9	35%
Year 10	30%

- (2) Notwithstanding any of the foregoing, the Company shall not be liable for a Major Shortfall Payment unless the number of FTEs remains at less than 65% of the Employment Obligation at the expiration of a Cure Period. The Company shall have the opportunity at any time before the expiration of a Cure Period to provide additional information to the Agency regarding the Major Shortfall, and to request a waiver or amendment of this provision.
- (3) Notwithstanding any of the foregoing, a Major Shortfall shall not apply where the Shortfall is as a result of a major casualty to or condemnation of the facility. In the event of such major casualty or condemnation, the Company shall have no obligation to pay the Major Shortfall Payment.

- (4) Qualification for a waiver of either (2) or (3) above shall be at the sole discretion of the Agency.

4. **Shift of Employment**. If the Shortfall or Major Shortfall is as a result of the Company shifting employment away from Oneida County, then the Agency will require the value of the Benefit and the Initial Benefit utilized to date to be repaid, with interest (determined as the New York State legal interest rate).

5. **Mandatory Recapture**. The Agency is mandated to recapture New York State sales tax benefits where:

- a. The Project is not entitled to receive those benefits.
- b. The exemptions exceed the amount authorized, or are claimed for unauthorized property or services.
- c. The Company fails to use property or services in the manner required by the Leaseback Agreement.

6. **Return of Recaptured Funds**. If the Agency recaptures Initial Benefits or Benefits from a Company, the Agency shall return the recaptured funds promptly to the affected taxing jurisdiction, unless otherwise agreed to by the taxing jurisdiction, in accordance with the General Municipal Law.

The Agency shall have the right to reduce any payment required under this Policy, in extraordinary circumstances, in its sole discretion.

Oneida County Industrial Development Agency

Insurance Requirements Under Leaseback Agreement

Section 3.4 Insurance Required.

At all times throughout the Lease Term, including, when indicated herein, during the Construction Period, the Company shall, at its sole cost and expense, maintain or cause to be maintained (and cause the Sublessees to maintain, where appropriate) insurance of the following types of coverage and limits of liability with an insurance carrier qualified and admitted to do business in New York State. The Insurance carrier must have at least an A- (excellent) rating by A. M. Best. Company shall pay, as the same become due and payable, all premiums with respect thereto, including, but not necessarily limited to:

(a) **Property Insurance:** Insurance against loss or damage by fire, lightning and other casualties customarily insured against in an all risk policy with special form perils, such insurance to be in an amount not less than the full replacement value of the completed Improvements, exclusive of footings and foundations, as determined by a recognized appraiser or insurer selected by the Company. During the Construction Period, such policy shall be written in the so-called "Builder's Risk Completed Value Non-Reporting Form" and shall contain a provision granting the insured permission to complete and/or occupy.

(b) **Workers' Compensation & Employers Liability Insurance and Disability Benefits Insurance** and each other form of insurance that the Company or any permitted sublessee is required by law to provide, covering loss resulting from injury, sickness, disability or death of employees of the Company or any permitted sublessee who are located at or assigned to the Facility. Statutory New York limits shall apply to these policies. This coverage shall be in effect from and after the Completion Date or on such earlier date as any employees of the Company, any permitted sublessee, any contractor or subcontractor first occupy the Facility.

(c) **General Liability Insurance** protecting the Agency, the Company and the owner of the Facility (if the Company is not the owner) against loss or losses from liability imposed by law or assumed in any written contract (including the contractual liability assumed by the Company under Section 5.2 hereof) and arising from personal injury, including bodily injury or death, or damage to the property of others, caused by an accident or occurrence with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. **Comprehensive Automobile Liability Insurance** including all owned, non-owned and hired autos with a limit of liability of not less than \$1,000,000 (combined single limit or equivalent for personal injury, including bodily injury or death, and property damage) protecting the Agency and the Company against any loss or liability or damage for personal injury, including bodily injury or death, or property damage, and **Umbrella Liability Insurance** of not less than \$5,000,000 per occurrence. This coverage shall also be in effect during the Construction Period.

(d) During the Construction Period (and for at least two years thereafter in the case of Products and Completed Operations as set forth below), the Company shall cause the general contractor to carry liability insurance of the type and providing the minimum limits set forth below:

(i) Workers' compensation & employer's liability and disability benefits insurance both with statutory limits in accordance with applicable law.

- (ii) Comprehensive general liability providing coverage for:
- Premises and Operations
 - Products and Completed Operations
 - Contractual Liability
 - Personal Injury Liability
 - Broad Form Property Damage
(including completed operations)
 - Explosion Hazard
 - Collapse Hazard
 - Underground Property Damage Hazard

Such insurance shall have a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The annual aggregate shall apply per project. The contractor's general liability policy shall include coverage for the contractor and any of the additional insureds for any operations performed on residential projects including single or multi-family housing, residential condominiums, residential apartments and assisted living facilities.

(iii) Comprehensive auto liability, including all owned, non-owned and hired autos, with a limit of liability of not less than \$1,000,000 (combined single limit for personal injury, including bodily injury or death, and property damage).

(iv) Umbrella Liability with limits of \$5,000,000 per occurrence and \$5,000,000 annual aggregate.

(e) A policy or policies of flood insurance in the maximum amount of flood insurance available with respect to the Facility under the Flood Disaster Protection Act of 1973, as amended, whichever is less. This requirement will be waived upon presentation of evidence satisfactory to the Agency that no portion of the Land is located within an area identified by the U.S. Department of Housing and Urban Development as having special flood hazards.

Section 3.5 Additional Provisions Respecting Insurance.

(a) All insurance required by Section 3.4 hereof shall be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the entity required to procure the same and authorized to write such insurance in the State. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other companies engaged in businesses similar in size, character and other respects to those in which the procuring entity is engaged. All policies evidencing the insurance required by Section 3.4 hereof shall provide for at least thirty (30) day's prior written notice of the restriction, cancellation or modification thereof to the Agency. The policies evidencing the insurance required by Section 3.4(c) hereof shall name the Agency and the owner of the Facility (if the Company is not the owner) as additional insured on a primary & non-contributory basis. All policies evidencing the insurance required by Sections 3.4(d)(ii) (iii) and (iv) shall name as additional insured the Agency, Company and the owner of the Facility (if the Company is not the owner) on a primary and non-contributory basis for the ongoing construction phase and for two years following completion during the completed operations phase. The policies under Section 3.4 (a) shall contain appropriate waivers of subrogation. The policies

under Section 3.4 (b),(c),(d) shall contain waivers of subrogation in favor of the Agency, the Company and the owner of the Facility (if the Company is not the owner).

(b) All policies or certificates (or binders) of insurance required by Sections 3.4 hereof shall be submitted to the Agency on or before the Closing Date. Attached to the certificate of insurance shall be a copy of the additional insured endorsement from the Company's General Liability policy. The Company shall deliver to the Agency before the renewal date of each policy a certificate dated not earlier than the immediately preceding month reciting that there is in full force and effect, with a term covering at least the next succeeding calendar year, insurance of the types and in the amounts required by Section 3.4 hereof and complying with the additional requirements of Section 3.5(a) hereof. Prior to the expiration of each such policy, the Company shall furnish the Agency with evidence that such policy has been renewed or replaced or is no longer required by this Leaseback Agreement. The Company shall provide such further information with respect to the insurance coverage required by this Leaseback Agreement as the Agency may from time to time reasonably require.

Agency shall be named as additional insured as follows:

Oneida County Industrial Development Agency, ISAOA
584 Phoenix Drive
Rome, New York 13441

Anthony J. Picente Jr.
County Executive

Shawna M. Papale
Secretary/
Executive Director

Timothy Fitzgerald
Assistant Secretary

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY

OCIDA



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(315) 338-0393, fax (315) 338-5694
info@mvedge.org www.oneidacountyida.org

David C. Grow
Chairman

L. Michael Fitzgerald
Vice Chair

Mary Faith Messenger
Treasurer

Ferris Betrus Jr.
Kirk Hinman
Eugene Quadraro
Stephen Zogby

ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY UNIFORM TAX EXEMPTION POLICY

**Adopted by the Oneida County Industrial Development Agency on
January 28, 1994, amended on December 21, 1998 and April 30, 2009**

The Oneida County Industrial Development Agency (the "Agency") has adopted the following uniform tax exemption policies. These policies will be used for all projects for which the Agency may provide financial assistance, including bond (taxable and/or tax exempt) issuances and straight lease transactions. Final determinations regarding the extent to which financial assistance, if any, will be granted are solely within the discretion of the Agency.

I. Project Eligibility Criteria

(a) General Requirements

The Agency considers the following general factors in determining whether a project is eligible for financial assistance:

- The nature of the proposed project (e.g., manufacturing, commercial, civic).
- The nature of the property before the project begins (e.g., vacant land, vacant buildings).
- The economic condition of the area at the time of the application.
- The extent to which a project will create or retain permanent, private sector jobs.
- The estimated value of tax exemptions to be provided.
- The impact of the project and the proposed tax exemptions on affected tax jurisdictions.
- The impact of the proposed project on existing and proposed businesses and economic development projects in the County.
- The amount of private sector investment generated or likely to be generated by the proposed project.
- The likelihood of accomplishing the proposed project in a timely fashion.
- The effect of the proposed project upon the environment.

-
- The extent to which the proposed project will provide additional sources of revenue for municipalities and school districts in which the project is located.
 - The extent to which the proposed project will provide a benefit (economic or otherwise) not otherwise available within the County of Oneida.

(b) Industrial and Manufacturing Projects

(1) Industrial and manufacturing projects generally qualify for financial assistance, subject to the eligibility criteria set forth in Part I (a) of this Policy.

(2) Due to the nature of the work, companies performing back-office operations that are regional or national in nature and a majority of which operations support activities outside of Oneida County will qualify as industrial and manufacturing. Research and development facilities and distribution centers that locate in Oneida County may also qualify as industrial and manufacturing.

(c) Retail Projects

The Agency will provide financial assistance to retail facilities only in accordance with the restrictions contained in New York State General Municipal Law Section 862(2), and subject to the eligibility criteria set forth in Part I (a) of this Policy. The Agency will also consider the competitive impact of the project.

Retail projects are generally not eligible for Agency assistance, with the following exceptions:

(i) Retail businesses that primarily serve customers located in Oneida County are generally not eligible for financial assistance unless located in a "highly distressed area" as defined in General Municipal Law §854(18), which includes projects located in an economic development zone or Empire Zone (as defined in New York State statute or regulation), or the project meets one of the other requirements of this paragraph (c);

(ii) Retail projects operated by not-for-profit corporations may be eligible for financial assistance;

(iii) Retail projects may be eligible for financial assistance provided an appropriate market analysis demonstrates that a majority of the project's customers are expected to come from outside of Oneida County and the project will not directly compete with existing businesses located in Oneida County; and

(iv) Retail businesses that primarily provide a product or a service that is otherwise not reasonably available in Oneida County may be eligible for financial assistance.

(d) Other Non-Industrial/Commercial Projects

Non-industrial/commercial projects may qualify for financial assistance at the discretion of the Agency, based upon its evaluation of the eligibility requirements set forth in Part I (a) of this Policy. The Agency confirms the following specific policies:

(i) Mixed or Multiple-Use Projects qualify for financial assistance, only with respect to that portion of the project that is used for purposes that qualify for financial assistance under this Policy.

(ii) Housing projects are generally not eligible for benefits, unless they

(a) service the elderly, low-income, assisted living or other groups with special needs; or

(b) promote employment opportunities and prevent economic deterioration, as confirmed by an appropriate market analysis, and such a determination is made by the Agency based upon all of the relevant facts.

II. Real Property Tax Abatements

If the Agency determines that a project will receive real property tax abatements, a Payment-In-Lieu-Of-Tax Agreement (the "PILOT") will be negotiated with each project owner (the "Company") and will substantially follow the following guidelines with final determinations to be made by the Agency.

(i) Real Property Acquired by Company as part of Project. If the Company is acquiring real property as part of the Agency project, then the Agency's real property tax exemption will be available with respect to all real property acquired by the Company as part of the project and improvements thereto.

(ii) Substantial Improvements to Existing Real Property Owned by Company. If the Company is making "Substantial Improvements" (as defined below) to existing real property owned by the Company, then the Agency's real property tax exemption will apply to both the existing real property and the improvements.

(iii) Non-Substantial Improvements to Existing Real Property. If the improvements to existing real property owned by the Company are not Substantial Improvements, then the Agency's tax exemption shall apply only to the increase in assessment resulting from improvements constructed or installed as part of the project and the Company shall pay PILOT payments equal to the full amount of taxes on the existing real property.

The term "Substantial Improvements" means the value of the improvements constructed or installed as part of the project equals at least 50% of the value of the real property prior to construction or installation of the improvements, as determined by an independent valuation acceptable to the Agency.

(a) Industrial and Manufacturing Projects

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 33 1/3% of such taxes through the fifth (5th) year of the exemption;

2. 66 2/3% of such taxes from the sixth (6th) through tenth (10th) year of the exemption;
3. 100% of such taxes after the tenth (10th) year of the exemption.

(b) Retail Projects

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 50% of such taxes through the second (2nd) year of the exemption;
2. 75% of such taxes from the third (3rd) through the fifth (5th) year of the exemption;
3. 100% of such taxes after the fifth (5th) year of the exemption.

(c) Other Non-Industrial/Commercial Projects

The Company shall pay a percentage of the taxes that would otherwise be payable if the project was not tax exempt, to each taxing jurisdiction in which the project is located, as follows:

1. 50% of such taxes through the second (2nd) year of the exemption.
2. 75% of such taxes from the third (3rd) through fifth (5th) year of the exemption.
3. 100% of such taxes after the fifth (5th) year of the exemption.

The Agency reserves the right to deviate from the real property tax abatement policy on a case by case basis at its sole discretion.

III. Sales Tax Exemptions

If, based on the eligibility criteria described in Part I of this Policy, the Agency determines a project is eligible for financial assistance, the Agency's financial assistance will include exemption from sales and use tax for costs of constructing, renovating and equipping the project.

Sales and use tax exemption, when available, will be authorized for the duration of the acquisition, construction and equipping of the project as described in the application for financial assistance. The Agency shall deliver a sales tax exemption letter which will expire one (1) year from the date of the project inducement. If construction, renovation or equipping is not complete at the expiration of the original sales tax exemption letter, upon request by the Company, the sales tax exemption letter may be extended at the discretion of the Agency.

All Companies receiving sales and use tax exemption benefits will be required to supply the Agency with a list of all contractors and sub-contractors that have been authorized to use the sales tax exemption letter. This list will be appended to the sales tax exemption letter by the Agency.

The Company must keep a record of the usage of the sales tax exemption letter, and must supply the Agency with the total amount of sales and use tax exemptions claimed by the project for each calendar year. The Company must submit this report to the Agency by February 1st of each year, until the exempt period comes to a conclusion. The company shall also file all reports as may be required by applicable law, including Form ST-340 which shall be filed with the New York State Department of Taxation and Finance.

The Agency reserves the right to deviate from the sales tax exemption policy on a case by case basis at its sole discretion.

IV. Mortgage Recording Tax Exemption

If, based on the project eligibility criteria described in Part I of this Policy, the Agency determines a project is eligible for financial assistance, the Agency will provide an exemption from New York State mortgage recording tax for the financing of project costs.

The Agency reserves the right to deviate from the mortgage recording tax exemption policy on a case by case basis at its sole discretion.

V. Recapture

Agency financial assistance is granted based upon the Company's representation that the project will create and/or maintain the employment levels described in its application for financial assistance (the "Employment Obligation"). If a Company fails to achieve and/or maintain its Employment Obligation, it could result in recapture of all or a portion of tax benefits granted by the Agency.

VI. Deviations

Deviations from this Policy shall be infrequent. The Agency reserves the right, at its sole discretion, to deviate from this Policy on a case by case basis. The Agency will provide written notice to the chief executive officer of each affected tax jurisdiction of any deviation from this Policy and will comply with the deviation requirements of the General Municipal Law.

ONEIDA COUNTY INDUSTRIAL
DEVELOPMENT AGENCY



**APPLICATION FOR FINANCIAL
ASSISTANCE**

SOLAR Project

ADDENDUM

Please complete this addendum and submit Pages 1-3, including any required supplemental information requested, along with the OCIDA Application for Financial Assistance (Base Leaseback Application)

Community Solar Project Questionnaire

Complete the following questions only if your project is Community Solar. **Please specifically reference ALL of the parameters outlined in Part I (A-D) of the OCIDA Uniform Tax Exemption Policy (Community Solar Projects) contained within this application and respond to the questions as they relate to the parameters of the policy. Attach additional pages as needed.**

1(a) Describe the project in detail, ie; (MW total capacity; battery storage; fixed or sun-tracking panels; single or double sided panels; project engineer; any required upgrades to transport energy generated to grid; domestic or foreign panel manufacture; any specific business entity or community tied to power generated; obligations of property owner, etc.)

3.3 MW AC / 4.05 MW DC Community Solar Project. Fixed Tilt Racking with 9020 PV Single Sided Modules at 450W each. No battery storage will be installed. Electrical upgrades are required and will be paid by applicant, and work completed by National Grid. Manufacturers of equipment are not yet known, but all equipment will be purchased from Tier-1 suppliers with warranties. The property will be a long-term lease agreement with the current landowner. At the end of the project, all equipment will be removed and the land will be fully remediated. A decommissioning bond will be put in place with the City of Rome at the time of building permit application.

1(b) Has the applicant provided written communication to any of the affected taxing jurisdictions notifying of its intent to construct the facility? Yes No

If YES, have any of the jurisdictions responded within 60 days of receipt of the written communication responded that they will require a contract for a payment in lieu of taxes?

Yes No

If YES, please explain and provide a copy of the communications and also the written response(s):

The City of Rome is aware that our project will be working with the OCIDA for the PILOT process.

1(c) Will the applicant be applying for **NYS RPTL 487** with any taxing jurisdiction? Yes No

1(d) Will there be a Host Community Agreement? Yes No **BW Solar is actively working with the City of Rome to negotiate a Host Community Agreement

*** If there is no Host Community Agreement please attach letters of support from each affected taxing jurisdiction.**

1(e) Has a facility decommissioning plan been accepted by the host community? Yes No

*** Please provide a copy of the accepted plan and evidence of acceptance.**

The Decommission Plan included in our Site Plan Approval from the City of Rome has been included in the Application.

1(f) Has provision been made to reserve funds for facility decommissioning, either through bond posting or establishment of an escrow account? Yes No

***Please provide a copy of evidence for provision of reserve funds for decommissioning.**

1(g) Has the project received or is it seeking any tax credits from any local, state or federal entity? Yes No

If YES, please explain in detail in 12(d) on Page 19 of OCIDA Application for Financial Assistance

Checklist for Solar Project Applications

Application for Financial Assistance and all supplemental information required by IDA (signed and notarized)

Check, or proof of paid application and commitment fee in the amount of \$1,500.00
**Wire Transfer: Payment is being processed and is expected to be paid the week of 9/11.

*Facility map delineating where on property the solar facility will be located. Map must include tax parcel number(s), Oneida County GIS-verified soils and be accompanied with a metes and bounds legal description.

Zoning or Planning Board approval (or if no such approvals are required, a letter of support from the Host Community)

Copy of Host Community Agreement or confirmation that one is not being executed. (OCIDA encourages Project Operators to enter into a Host Community Agreement directly with the Host Community.)
**BW Solar is actively working with the City of Rome to negotiate a Host Community Agreement

Decommissioning plan prepared by a licensed engineer detailing decommissioning of the Facility, which includes an estimated cost reflecting inflation to the time of decommissioning. If a decommissioning plan has been reviewed by a Zoning or Planning Board of the Host Community, such approval should be submitted. The Agency reserves the right to retain an independent engineer at the Project Operator's expense to validate the decommissioning plan and cost.

Evidence that provision has been made (or will be made before closing) to reserve funds for decommissioning, either through the posting of a bond or establishment of an escrow account.

Copy of Lease Agreement with landowner (if applicable)

Part 1 EAF completed and signed by the Applicant

Parts 2 and 3 EAF completed and signed by the lead agency with determination of type of action (with copies of resolutions if available) BW is working with the City of Rome to get the EAF Part and 3 full versions. The resolution was provided

*** Is any portion of the tax map parcel upon which the facility will be located listed as desirable for commercial or residential development per the zoning, or is it designated on the Oneida County GIS-verified soils map as prime soils land (Prime Farmland)?** Yes No

*** Has any portion of the site upon which the facility will be located been used for an agricultural purpose within the past 18 months?** Yes No

Oneida County Industrial Development Agency
Uniform Tax Exemption Policy (Community Solar Projects)

Adopted September 18, 2020

Modified April 30, 2021 and

Modified March 3, 2022

The Oneida County Industrial Development Agency (the “Agency”) has adopted the following uniform tax exemption policy with respect to Community Solar projects. Final determination regarding the extent to which financial assistance, if any, will be granted is solely within the discretion of the Agency. The Agency’s definition of ‘community solar projects’ follows the guidance and definition as provided by the New York State Energy and Research Development Authority (NYSERDA). The Agency will modify its definition of ‘community solar projects’ as needed.

I. Project Eligibility Criteria

- (A) All Project Operators must submit a signed Application for Financial Assistance in the Agency’s standard form, together with all supplemental information the Agency may require (the “Application”).
- (B) Support of the affected tax jurisdictions is required for Community Solar projects. A copy of zoning or planning board approval is required; in absence of such, the host jurisdiction can issue a letter of support.
- (C) Community Solar projects are required to provide a metes & bounds survey map of the “Project Solar Array Area,” which includes the solar array as well as all land controlled by the Project Operator in connection with operation of the solar array.
- (D) Community Solar projects are encouraged to enter into a Host Community Agreement.
- (E) The Agency will consider the following additional factors in determining whether a Community Solar project is eligible for financial assistance:

- i. The extent to which the project benefits users residing in Oneida County
- ii. The extent to which the project is located on undesirable land or difficult land to develop (e.g., landfills, gravel pits, sites designated as Brownfield, not harmful to agriculture operation)
- iii. The extent to which a project does not create an additional burden to affected tax jurisdictions

II. Financial Assistance

1. **Property Tax Exemptions.** Project Operators will pay a fixed payment in lieu of taxes (“PILOT Payments”) for a period of twenty-five years, to be billed by and allocated among the tax jurisdictions in the same proportion that taxes would have been paid but for the Agency’s involvement. PILOT Payments will be calculated as follows:
 - (i) During Exemption Year 1, a fixed PILOT Payment equal to \$10,000 per MW-AC of nameplate capacity (the “Minimum PILOT Payment”); and
 - (ii) During Exemption Years 2 through and including 25, a fixed PILOT Payment equal to the greater of (x) the Minimum PILOT Payment or (y) \$10,000 per MW-AC of nameplate capacity in the immediately preceding calendar year, plus an incremental increase of two percent (2.00%) for each Exemption Year; and
 - (iii) 100% of taxes after Exemption Year 25.
- The Agency will use the MW-AC nameplate capacity contained in the Application to calculate the Minimum PILOT Payment. The Project Operator will be required to provide to the Agency annually within 60 days of the end of each calendar year the Annual Megawatt Generation Report that is submitted to NYSERDA and certify the nameplate capacity for the Project. The PILOT Payment will be adjusted annually (upward, not downward) based on the actual MW-AC of nameplate capacity.
- PILOT Payments are intended to be in lieu of the increase in taxes attributable to construction of the solar array. The Company shall pay to the tax jurisdictions taxes, or payments in lieu of taxes, on the Project Solar Array Area and existing facilities thereon (other than the solar array) that would be payable but not for the Agency’s involvement.

2. **Mortgage Recording Tax Exemption.**

If, based on the project eligibility criteria described in Part I of this Policy, the Agency determines a project is eligible for financial assistance, the Agency will provide an exemption from New York State mortgage recording tax for the financing of project costs.

- Such exemption is limited to the extent of the Agency's legal exemption. As of the date of this Policy, the Agency is exempt from 75% of the 1% mortgage recording tax but is not exempt from 25% of the 1% mortgage recording tax applicable to CENTRO..
- The Agency reserves the right to deviate from the mortgage recording tax exemption policy on a case by case basis at its sole discretion.

3. **Sales Tax Exemption.**

- No Sales tax benefit is offered.

III. Other Requirements

- **Annual Rent.** The Project Operator shall pay annual rent to the Agency in the amount of \$2,000, payable on the Closing Date and annually each January during the term of the PILOT Agreement.
- **Host Community Payment.** In the absence of a Host Community Agreement, the Project Operator will be required to pay directly to the host jurisdiction an annual Host Community Payment equal to five percent (5%) of the PILOT Payment.
- **Decommissioning Plan.** The Project Operator must provide a decommissioning plan prepared and stamped by a licensed engineer detailing decommissioning of the Facility and including an estimated cost including inflation to the time of decommissioning. The Agency will require evidence that provision has been made to reserve funds for decommissioning, either through the posting of a bond or establishment of an escrow account. The Agency will require evidence that provision has been made to reserve funds for decommissioning, either through the posting of a bond or establishment of an escrow account for the benefit of the landowner or, if the Project Operator is the landowner, for the benefit of the Host Jurisdiction.

- Project Operators are directed to consult the Decommissioning Plan Guidance posted on the Agency’s website in preparing a decommissioning plan. The Agency reserves the right to retain an independent engineer at the Project Operator’s expense to validate the decommissioning plan and cost.

V. Recapture

The Agency financial assistance is conditioned upon the Company’s representations that the project will be completed substantially in accordance with the Application (the “Project Obligation”). The Agency is required to review on an annual basis whether a Project is achieving its Project Obligation. Failure to provide the annual report to the Agency, or if the Annual Report shows that a Company is not meeting its Project Obligation, could result in recapture of all or a portion of tax benefits granted by the Agency.

VI. Deviations

Deviations from this Policy shall be infrequent. The Agency reserves the right, at its sole discretion, to deviate from this Policy on a case by case basis. The Agency will provide written notice to the chief executive officer of each affected tax jurisdiction of any deviation from this Policy and will comply with the deviation requirements of the General Municipal Law.

Oneida County Industrial Development Agency Decommissioning Plan Guidance

1.0 DEFINITIONS

Solar Energy Equipment: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

Solar Energy System: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment.

Owner: One who has legal title to the Property.

Developer: Owner or Lessee planning, constructing and/or maintaining a Solar Energy System.

Lease: A contract by which an Owner of Property conveys exclusive possession, control or use of it, or portion thereof, for a specific rent and a specified term after which the Property reverts to the Owner.

Storage Battery: A device that stores energy and makes it available in an electrical form.

2.0 DECOMMISSIONING

Decommissioning will occur as a result of any of the following conditions:

- A. The land Lease, if any, ends.
- B. Upon cessation of electricity generation of a Solar Energy System on a continuous basis for [6 months].
- C. Upon the reduction of electricity generation of a Solar Energy System below 10% of the design capacity on a continuous basis for [1 year].
- D. The system is damaged and will not be repaired or replaced.
- E. Abandoned prior to the completion of construction.
- F. The facility has been otherwise abandoned.

In the event of default or abandonment of the Solar Energy System, the system shall be decommissioned as set forth in the accepted Decommissioning Plan.

2.1 DECOMMISSIONING PLAN

A Decommissioning Plan signed by the Developer of the Solar Energy System shall be submitted by the applicant, addressing the following:

- The cost of removing the Solar Energy System.
- The work and time required to decommission and remove the Solar Energy System and any ancillary structures, and to remediate any environmental impacts.
- The time required to repair any damage caused to the Property by the installation and removal of the Solar Energy System.

2.1.1 DECOMMISSIONING COSTS

- The Developer may complete all decommissioning work with either their own finances or workforce. However, for cost estimating purposes, all work associated with decommissioning is assumed to be undertaken by a third party retained by the Owner or [DESIGNATED MUNICIPAL ENTITY].
- Cost estimates are to be certified by a licensed architect or engineer and accepted by the [DESIGNATED MUNICIPAL ENTITY] and updated every 5 years beginning 10 years after construction at the cost of the Developer. The surety instrument should be adjusted according to the updated cost estimates, as well as automatic increases as outlined in the Surety section.

2.1.2 DECOMMISSIONING WORK AND SCHEDULE

The work and time required to remove the Solar Energy System any ancillary structures, shall include:

1. All efforts to properly remove and dispose of all components of the Solar Energy System in accordance with the Decommissioning Plan and Federal, State and local laws.

2. All efforts to properly remove and dispose of any infrastructure above and below ground associated with the Solar Energy System, including but not limited to foundations, driveways, road, fences, lighting and/or other utilities.
3. All efforts to identify and remediate any hazardous or otherwise contaminated material released onsite during the construction, operation and/or decommissioning of the Solar Energy System.

The Decommissioning Plan, including remediation and restoration, must be completed within [one year] of notification by the [DESIGNATED MUNICIPAL ENTITY].

2.1.3 RESTORATION

The work and time required to repair and restore any damage or disturbances caused to the Property by construction, operation and/or decommissioning of the Solar Energy System shall include:

1. All efforts to properly grade the Property back to pre-disturbed condition or a condition otherwise agreed upon by all involved parties.
2. Unless otherwise agreed upon, restoration will include:
 - a. Proof rolled subgrade.
 - b. Fill materials compacted to 85% modified proctor
 - c. Three inches (minimum) of topsoil.
 - d. Seed and mulch.
3. Materials to be used:
 - a. Fill material: NYSDOT Item No.: 203.05
 - b. Topsoil: NYSDOT Specification Section 713-01
 - c. Seed: NYSDOT Specification Section 713-04
 - d. Mulch: NYSDOT Specification Section 713-05

4. Restoration is to be completed after all removal and remediation efforts at the Property are completed.
5. Restoration shall be considered completed once all grading has been performed and appropriate vegetation has been properly established onsite.

3.0 SECURITY

The deposit, executions or filing with the [DESIGNATED MUNICIPAL ENTITY] Clerk of cash escrow held by a federally insured financial institution, surety bond, letter of credit or other form of security reasonably acceptable to the [DESIGNATED MUNICIPAL ENTITY] attorney, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the removal and restoration of the site subsequent to removal. The amount of the bond or security shall be [125] % of the cost of decommissioning the Solar Energy System and restoration of the Property with an escalator equal to the Consumer Price Index (CPI) annually for the life of the Solar Energy System. The bonding company must have a minimum A.M. Best Company rating of A- and be T-Listed. No permits will be issued until the surety instrument is in place.

In the event of default in the execution of the completion of the Decommissioning Plan, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the [DESIGNATED MUNICIPAL ENTITY], which shall be entitled to use the security to complete the Decommissioning Plan. The cash deposit, bond, or security shall remain in full force and effect until restoration of the Property as set forth in the Decommissioning Plan is completed.

4.0 OWNERSHIP CHANGES

If the Developer of the Solar Energy System changes or the Owner of the Property changes, the [DESIGNATED MUNICIPAL ENTITY] issued permit shall remain in effect, provided that the succeeding Owner or Developer assumes in writing all of the obligations of the permit, Site Plan Approval and Decommissioning Plan. A new Owner or Developer of the Solar Energy System shall notify the [DESIGNATED MUNICIPAL ENTITY] of such change in Ownership or Developer [30] days prior to the ownership change.

5.0 SEVERABILITY

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision or phrase, which shall remain in full force and effect.

6.0 ENFORCEMENT

Any violation of this Solar Energy Code shall be subject to the same enforcement requirements, including liens, civil and criminal penalties, including terminating any PILOT programs provided for in the [DESIGNATED MUNICIPAL ENTITY] regulations.

Sample PILOT Calculations for ONEIDA COUNTY IDA

2023 Oneida County Tax Records from Landowner	
FMV Value Per Assessor as of 7/26/2022	\$ 76,621.00
Assessed Value as of 7/26/2022	\$ 41,000.00
UNIFORM Percentage of Value	53.51%

Current Taxes (Vacant Land)	
\$ 545.79	Town
\$ 1,390.43	School
\$ 432.06	County
\$ 2,368.28	

City of Rome Assessment provided by Joe Surace	
Land Assessment (21.02 Acres)	\$ 105,100.00
Solar Array Assessment	\$ 1,071,765.00
Assessed Value	\$ 1,176,865.00

Full Assessment	
\$ 15,666.43	Town
\$ 39,910.91	School
\$ 12,401.92	County
\$ 67,979.25	

Estimates of Tax Rates based on information provided by Landowner and County Records					
Taxing Jurisdiction	Tax Rate	Percentage	Pro-Rata Portion	Taxes Per FMV	
City of Rome	13.3120	13.3120%	0.2305	\$ 15,666.43	
Oriskany School District	33.9129	33.9129%	0.5871	\$ 39,910.91	
Oneida County	10.5381	10.5381%	0.1824	\$ 12,401.92	
Total	57.7630	57.7630%	1.0000	\$ 67,979.25	Total Taxes For 1 Year
				\$ 20,599.77	Total Per MW
					Total 25 Years 0% Escalator
				\$ 1,699,481.32	

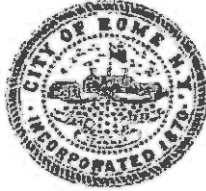
100% Taxation Sample

PILOT PAYMENTS							
3.3MW @ 10,000/MW with a 2% annual escalator per year, for 25 years							
YEAR	City of Rome	Oriskany School District	Oneida County	Total	Full Assessment with No Escalator	Full Assessment with 2% Escalator	Current Property Taxes with a 2% Escalator
1	\$ 7,605.15	\$ 19,374.44	\$ 6,020.42	\$ 33,000.00	\$ 67,979.25	\$ 67,979.25	\$ 2,368.28
2	\$ 7,757.25	\$ 19,761.93	\$ 6,140.82	\$ 33,660.00	\$ 67,979.25	\$ 69,338.84	\$ 2,415.65
3	\$ 7,912.39	\$ 20,157.17	\$ 6,263.64	\$ 34,333.20	\$ 67,979.25	\$ 70,725.61	\$ 2,463.96
4	\$ 8,070.64	\$ 20,560.31	\$ 6,388.91	\$ 35,019.86	\$ 67,979.25	\$ 72,140.13	\$ 2,513.24
5	\$ 8,232.05	\$ 20,971.52	\$ 6,516.69	\$ 35,720.26	\$ 67,979.25	\$ 73,582.93	\$ 2,563.50
6	\$ 8,396.69	\$ 21,390.95	\$ 6,647.03	\$ 36,434.67	\$ 67,979.25	\$ 75,054.59	\$ 2,614.77
7	\$ 8,564.63	\$ 21,818.76	\$ 6,779.97	\$ 37,163.36	\$ 67,979.25	\$ 76,555.68	\$ 2,667.07
8	\$ 8,735.92	\$ 22,255.14	\$ 6,915.57	\$ 37,906.63	\$ 67,979.25	\$ 78,086.79	\$ 2,720.41
9	\$ 8,910.64	\$ 22,700.24	\$ 7,053.88	\$ 38,664.76	\$ 67,979.25	\$ 79,648.53	\$ 2,774.82
10	\$ 9,088.85	\$ 23,154.25	\$ 7,194.95	\$ 39,438.05	\$ 67,979.25	\$ 81,241.50	\$ 2,830.31
11	\$ 9,270.63	\$ 23,617.33	\$ 7,338.85	\$ 40,226.82	\$ 67,979.25	\$ 82,866.33	\$ 2,886.92
12	\$ 9,456.04	\$ 24,089.68	\$ 7,485.63	\$ 41,031.35	\$ 67,979.25	\$ 84,523.66	\$ 2,944.66
13	\$ 9,645.16	\$ 24,571.47	\$ 7,635.34	\$ 41,851.98	\$ 67,979.25	\$ 86,214.13	\$ 3,003.55
14	\$ 9,838.07	\$ 25,062.90	\$ 7,788.05	\$ 42,689.02	\$ 67,979.25	\$ 87,938.41	\$ 3,063.62
15	\$ 10,034.83	\$ 25,564.16	\$ 7,943.81	\$ 43,542.80	\$ 67,979.25	\$ 89,697.18	\$ 3,124.90
16	\$ 10,235.52	\$ 26,075.44	\$ 8,102.69	\$ 44,413.66	\$ 67,979.25	\$ 91,491.12	\$ 3,187.39
17	\$ 10,440.23	\$ 26,596.95	\$ 8,264.74	\$ 45,301.93	\$ 67,979.25	\$ 93,320.95	\$ 3,251.14
18	\$ 10,649.04	\$ 27,128.89	\$ 8,430.04	\$ 46,207.97	\$ 67,979.25	\$ 95,187.37	\$ 3,316.16
19	\$ 10,862.02	\$ 27,671.47	\$ 8,598.64	\$ 47,132.13	\$ 67,979.25	\$ 97,091.11	\$ 3,382.49
20	\$ 11,079.26	\$ 28,224.90	\$ 8,770.61	\$ 48,074.77	\$ 67,979.25	\$ 99,032.94	\$ 3,450.14
21	\$ 11,300.85	\$ 28,789.40	\$ 8,946.02	\$ 49,036.26	\$ 67,979.25	\$ 101,013.59	\$ 3,519.14
22	\$ 11,526.86	\$ 29,365.18	\$ 9,124.94	\$ 50,016.99	\$ 67,979.25	\$ 103,033.87	\$ 3,589.52
23	\$ 11,757.40	\$ 29,952.49	\$ 9,307.44	\$ 51,017.33	\$ 67,979.25	\$ 105,094.54	\$ 3,661.31
24	\$ 11,992.55	\$ 30,551.54	\$ 9,493.59	\$ 52,037.68	\$ 67,979.25	\$ 107,196.43	\$ 3,734.54
25	\$ 12,232.40	\$ 31,162.57	\$ 9,683.46	\$ 53,078.43	\$ 67,979.25	\$ 109,340.36	\$ 3,809.23
Total	\$ 243,595.08	\$ 620,569.08	\$ 192,835.73	\$ 1,056,999.89	\$ 1,699,481.32	\$ 2,177,395.85	\$ 75,856.72

Total PILOT Saving over 25 Year	\$ 642,481.43	\$ 1,120,395.96
Average PILOT Savings Per Year	\$ 25,699.26	\$ 44,815.84
Average Cost Per MW/Year	\$ 20,599.77	\$ 26,392.68

< PILOT Value

JACQUELINE M. IZZO
MAYOR



JOSEPH J. SURACE, JR.
ASSESSOR

OFFICE OF THE ASSESSOR
ROME CITY HALL ♦ 198 N. WASHINGTON STREET
ROME, NEW YORK 13440-5815
(315) 339-7614 ♦ FAX (315) 838-1164
www.romenewyork.com

January 26, 2022

BW Solar Holding Inc.
Attn: Bogdan Dinu
850 New Burton Road
Suite 201
Dover, DE 19904

Re: Solar Farm located at 6821 Martin St., Rome, New York
Tax Map # 259.001-0001-002

Dear Mr. Dinu:

Thank you for your notification of intent to construct a solar farm in the City of Rome.

Per New York State Real Property Tax Law 487, the City can initiate the option of entering into contracts with owners or developers to make payments in lieu of taxes also known as PILOT's.

Please consider this as our notification, as required by Section 487 of the New York State Real Property Tax Law, that upon completion of your solar farm system, a PILOT contract will be implemented.

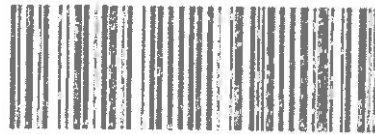
If you have any questions you may contact me at 315-339-7616.

Respectfully,

Joseph J. Surace, Jr.
Assessor
City of Rome

OFFICE OF THE ASSESSOR
CITY HALL
ROME, NEW YORK 13440

CERTIFIED MAIL



7016 1370 0001 6159 1518



BW Solar Holding Inc.
Attn: Bogdan Dinu
850 New Burton Road
Suite 201
Dover, DE 19904

1990485786 R001



**ONEIDA COUNTY INDUSTRIAL DEVELOPMENT AGENCY
COST/BENEFIT ANALYSIS
Required by §859-a(3) of the
New York General Municipal Law**

6-Sep-23

Name of Applicant: NY CDG Oneida 2 LLC
69 State Street, 13th Floor, Albany NY
Description of Project: 3.3 MW AC Solar Facility-8821 Martin St. Rome

Name of All Sublessees or Other Occupants of Facility: _____

Principals or Parent of Applicant: Daniel Huntington

Products or Services of Applicant to be produced or carried out at facility: solar power production

Estimated Date of Completion of Project: Oct-24

Type of Financing/ Structure: _____ Tax-Exempt Financing
_____ Taxable Financing
X Sale/ Leaseback
_____ Other

Type of Benefits being Sought by Applicant: _____ Taxable Financing
_____ Tax-Exempt Bonds
_____ Sales Tax Exemption on Eligible Expenses Until Completion
_____ Mortgage Recording Tax Abatement
X Real Property Tax Abatement

C

Project Costs

Land Acquisition	\$ -
Existing Building(s) ACQUISITION	\$ -
Existing Building(s) RENOVATION	\$ -
NEW Building(s) CONSTRUCTION	\$ 2,486,480
Installation Costs	\$ 467,173
Site Preparation/Parking Lot Construction	\$ 5,000
Machinery & Equipment (other than furniture)	\$ 850,000
Furniture & Fixtures	\$ 1,281,000
Architectural & Engineering	\$ 119,757
Legal Fees (applicant, IDA, bank, other counsel)	\$ 10,000
Financial (all costs related to project financing)	\$ -
Permits	\$ -
Other	\$ 159,000
Agency Fee	\$ 26,862
TOTAL COST OF PROJECT	\$ 5,405,302

Page 18 of application

Assistance Provided by the Following:

EDGE Loan:

MVEDD Loan:

Grants - Please indicate source & Amount:

Other Loans - Please indicate source & Amount:

\$	1,173,816

NYSERDA

Company Information

Existing Jobs
Created Jobs FTE (over three years)
Retained Jobs

		Average Salary of these Positions
Existing Jobs	0	\$ -
Created Jobs FTE (over three years)	0	\$ -
Retained Jobs	0	\$ -

Earnings Information for Oneida County

Average Salary of Direct Jobs for Applicant
Average of County Indirect Jobs
Average of Construction Jobs

Average Salary of Direct Jobs for Applicant	\$ -
Average of County Indirect Jobs	\$ 25,900
Average of Construction Jobs	\$ 32,000

Note: \$1,000,000 in construction expenditures generates 15 person - years of employment

Construction Person Years of Employment:

15

Calculation of Benefits (3 Year Period)

	Total Earnings	Revenues
Direct Jobs		
Created	\$ -	\$ -
Existing	\$ -	\$ -
Indirect Jobs		
Created	\$ -	\$ -
Existing	0	0
Construction - only one year		
Person Years	\$ 473,384	\$ 20,119
TOTALS Calculation of Benefits (3 Yr Period)	\$ 473,384	\$ 20,119

TAXABLE GOODS & SERVICES

		Spending Rate	Expenditures	State & Local Sales Tax Revenues
Direct Jobs	Created	36%	\$ -	\$ -
	Existing	0.36	\$ -	\$ -
Indirect Jobs	Created	0.36	\$ -	\$ -
	Existing	0.36	\$ -	\$ -
Construction - only one year	Person Years	0.36	\$ 170,418	\$ 16,816
<u>TOTAL TAXABLE GOODS & SERVICES</u>			\$ 170,418	\$ 16,816

Local (3 year) real property tax benefit (assuming 60% of jobs existing and created own a residence) with an average assessment of \$80,000 and the remainder of jobs existing created pay real property taxes through rent based on an average assessment per apartment of \$50,000.

Tax Rate for School District where facility is located:

Tax Rate for Municipality where facility is located: INCL JOINT FIRE

Tax Rate for County:

\$	32.96104500
\$	13.3120400
\$	10.538131
Total Rate:	
	56.811216

Municipality

Oriskany	23-24
Rome Outer	23
Oneida	23

Real Property Taxes Paid: \$ -

COSTS: IDA BENEFITS

0

Real Property Taxes Abatement

Mortgage Tax Abated (.75%)

Estimated Sales Tax Abated During Construction Period (8.75%)

Total:

\$	1,120,396
\$	-
\$	-
\$	1,120,396

NOTE: If there is a tax-exempt financing of all or a portion of the project cost, there is a neutral cost/benefit because of lower interest rates by reason of exclusion of interest from gross income of bondholders for purposes of Federal and State income taxes. Taxable financing carries the same cost/benefit for State income Tax purposes. Such cost/benefits cannot be quantified.

Jacqueline M. Izzo
Mayor



Rome Planning Board

(C) Mark Esposito
(VC) Joe Calendra
David Troutman
Karim Madmoune
David Smith

City of Rome Planning Board
ROME CITY HALL, 198 N. WASHINGTON STREET
ROME, NEW YORK 13440-5815
Telephone: (315) 339-7643 Fax: (315) 838-1167

September 15th, 2021

Chris Centola
Labella Associates
300 State Street
Rochester, NY 14614

Dear Mr. Centola:

At the regular meeting of the Rome Planning Board held on September 14th, 2021, the site plan for the request by you submitted on behalf of NY CDG Oneida 2, LLC for the construction of an 18.3 acre solar array at 6821 Martin Street was approved unanimously 5-0. The project was also issued a State Environmental Quality Review Negative Declaration.

Your next step is to contact the Office of Code Enforcement to obtain your permits based on the approved plans. On behalf of the Board, we thank you for your cooperation and we look forward to the successful completion of the project.

Sincerely,


Mark Esposito
Planning Board Chairman

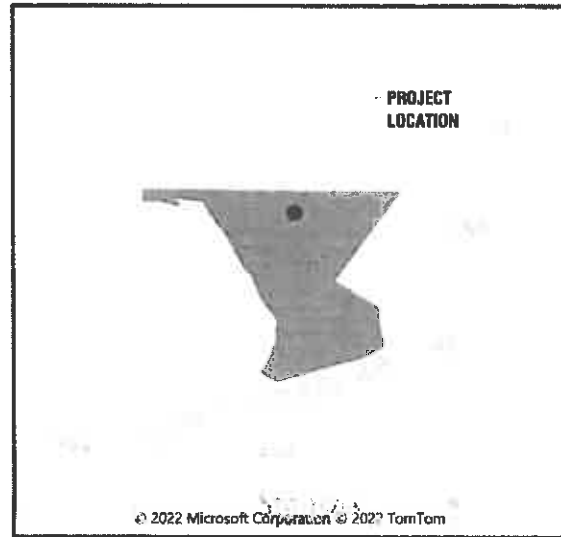
Cc: James Rizzo, Office of the Corporation Counsel
Butch Conover, Commissioner of Public Works
Mark Domenico, Chief Code Enforcement Officer
Jean Grande, City Clerk and Registrar
File

ONEIDA 2

6821 MARTIN STREET CITY OF ROME, NY 13440

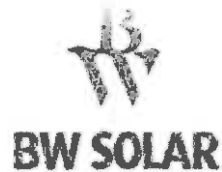
PROJECT DATA	
GENERAL INFORMATION	
APPLICANT	NY CDG ONEIDA 2, LLC
PROJECT ADDRESS	6821 MARTIN STREET, CITY OF ROME, NY 13440
TAX MAP ID	250.0001.01
LOCAL ZONING	R-100
COMPASS ROSE LOCATION	N
PARCEL NUMBER	100281000
EASEMENTS/RIGHTS	A-1 USE RIGHTS
ADJACENT PARCELS	A-100.0002.00
ADJACENT PARCEL AREA	4700 SF
PROPOSED AREA	6742 SF
EXISTING AREA	6742 SF
NET DEVELOPMENT	6742 SF
NET DEVELOPMENT COEFFICIENT	1.43
DESIGNATED PARKING	800
DESIGNATED SIDEWALK	6742 SF
CURBS	6742 SF
TOTAL PAVED	13484 SF
CONCRETE DRIVEWAY	6742 SF
ASPHALT DRIVEWAY	6742 SF

ZONING INFORMATION		
ZONING		
COMMITTEE	REVISION	DESCRIPTION
COMMITTEE		CITY OF ROME
REVISION	1	NEW ZONING (R-100.0001.00) / NEW ZONING
DESCRIPTION		LOCAL PARCEL #
DESIGNATED	222	6742 SF
DESIGNATED	2547	6742 SF
DESIGNATED	277	6742 SF
DESIGNATED	786	6742 SF
DESIGNATED	83	6742 SF



CIVIL DRAWING INDEX

- | | |
|------|---|
| C000 | COVER SHEET |
| C001 | GENERAL NOTES |
| C101 | EXISTING CONDITIONS AND DEMOLITION PLAN |
| C200 | OVERALL SITE PLAN |
| C201 | SITE & UTILITY PLAN |
| C501 | EROSION & SEDIMENT CONTROL PLAN |
| C801 | LANDSCAPE PLAN |
| C701 | CONSTRUCTION DETAILS |
| C702 | CONSTRUCTION DETAILS |
| C703 | CONSTRUCTION DETAILS |



NY CDG ONEIDA 2, LLC.
 850 NEW BURTON ROAD, SUITE 201
 DOVER, DE 19904
 PROJECT NO: 2210199.04



MAY 2022
 REVISED MAY, 2022

UNAPPROVED DRAWING	DATE
APPROVED DRAWING	DATE

NOT FOR CONSTRUCTION

This drawing is based on field notes and other information furnished by the owner and is not a guarantee of accuracy. It is intended for general reference only and should not be used for construction purposes. The owner is responsible for the accuracy of the information provided. The engineer is not responsible for any errors or omissions. This drawing is not to be used for any other purpose without the written consent of the engineer.

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NY CDG ONEIDA 2, LLC.
6471 ROUTE 51, ONEIDA, NY 13622



ONEIDA 2
6471 ROUTE 51, ONEIDA, NY 13622

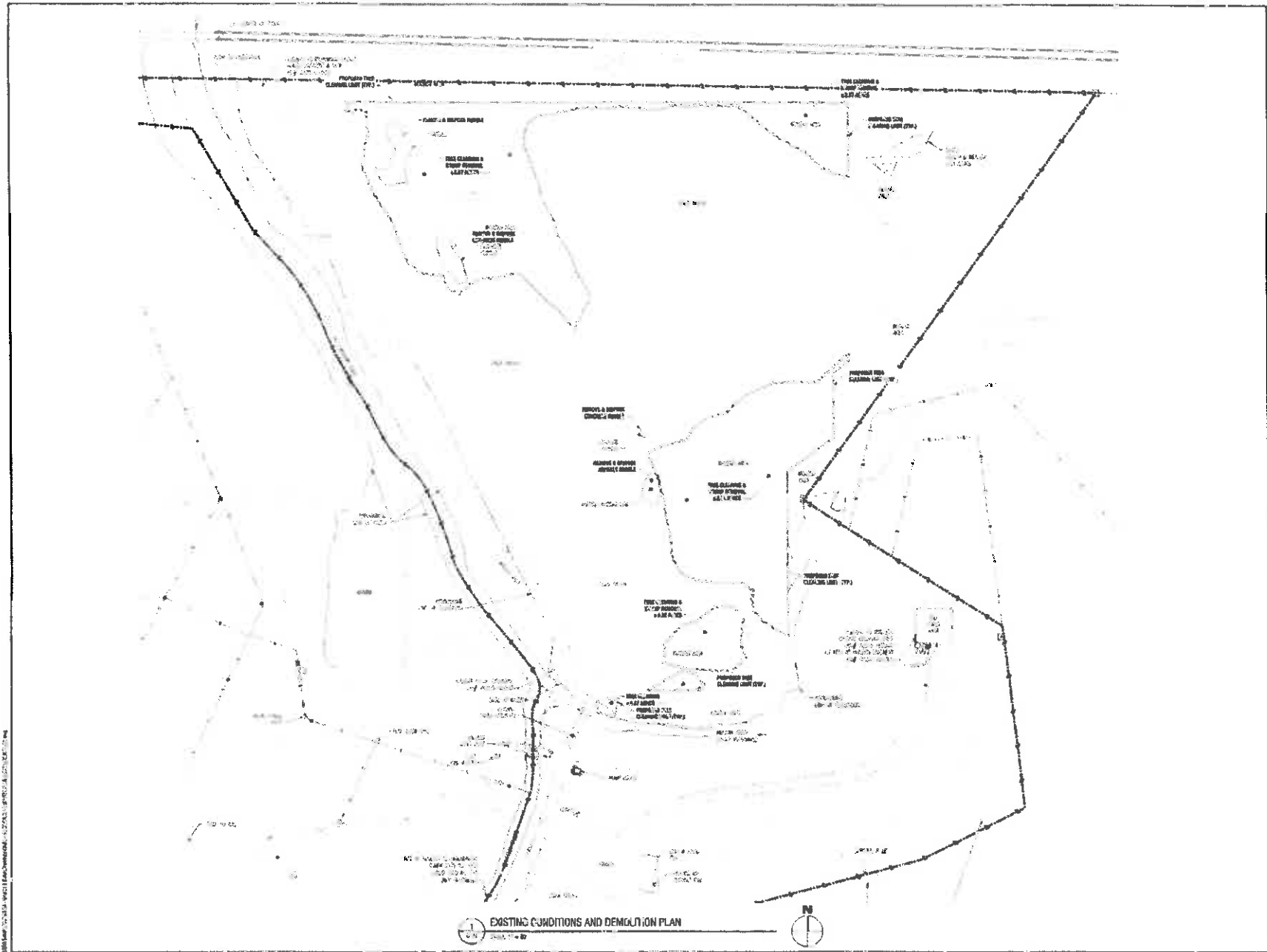
DATE	DESCRIPTION

PROJECT NUMBER	18-001-01
OWNER	JWA
DESIGNER	JWA
DATE	JULY 2021

EXISTING CONDITIONS & DEMOLITION PLAN

SCALE: AS SHOWN

C101



EXISTING CONDITIONS AND DEMOLITION PLAN
SCALE: AS SHOWN

DRAWING NO. 18-001-01-01 (18-001-01-01) (18-001-01-01)

NOT FOR CONSTRUCTION

It is a violation of New York Education Law Article 141, Part 7700, for any person, unless acting as the duly authorized agent of a licensed architect, engineer, or land surveyor, to alter or, in any way, to not have bearing the seal of an architect, engineer, or land surveyor shall apply to the final plan and specification prepared for use by the State Board of Regents, and a specific description of the violation.

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NY CDG ONEIDA 2, LLC.
FOUR MARTIN CAMPUS CITY LA FORT, NY 13643



ONEIDA 2
4600 MARTIN CAMPUS CITY LA FORT, NY 13643

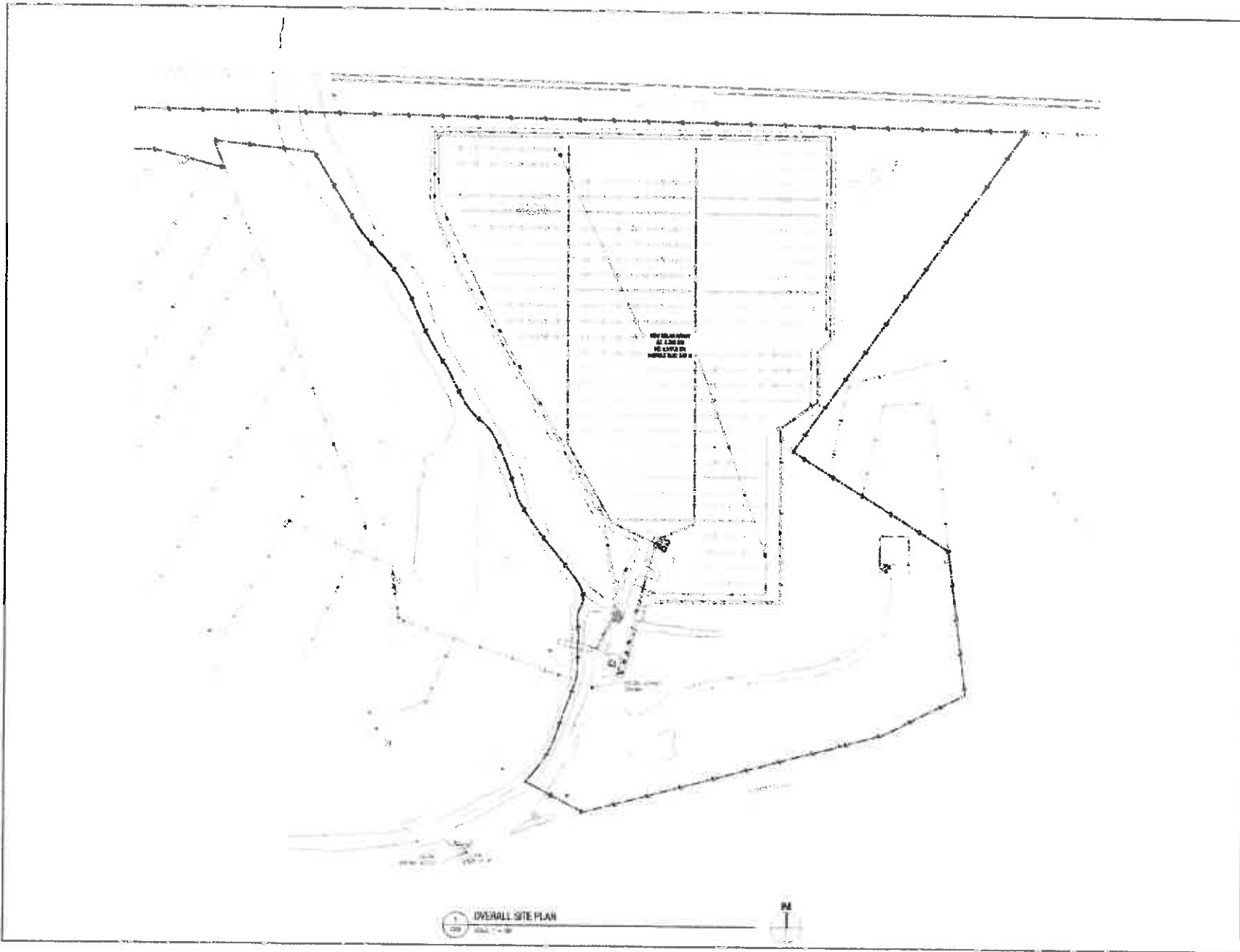
DATE	DESCRIPTION

PROJECT NAME	NY CDG ONEIDA 2
DESIGNED BY	JLA
CHECKED BY	JCT
DATE	REVISION

OVERALL SITE PLAN

BY ARCHITECT

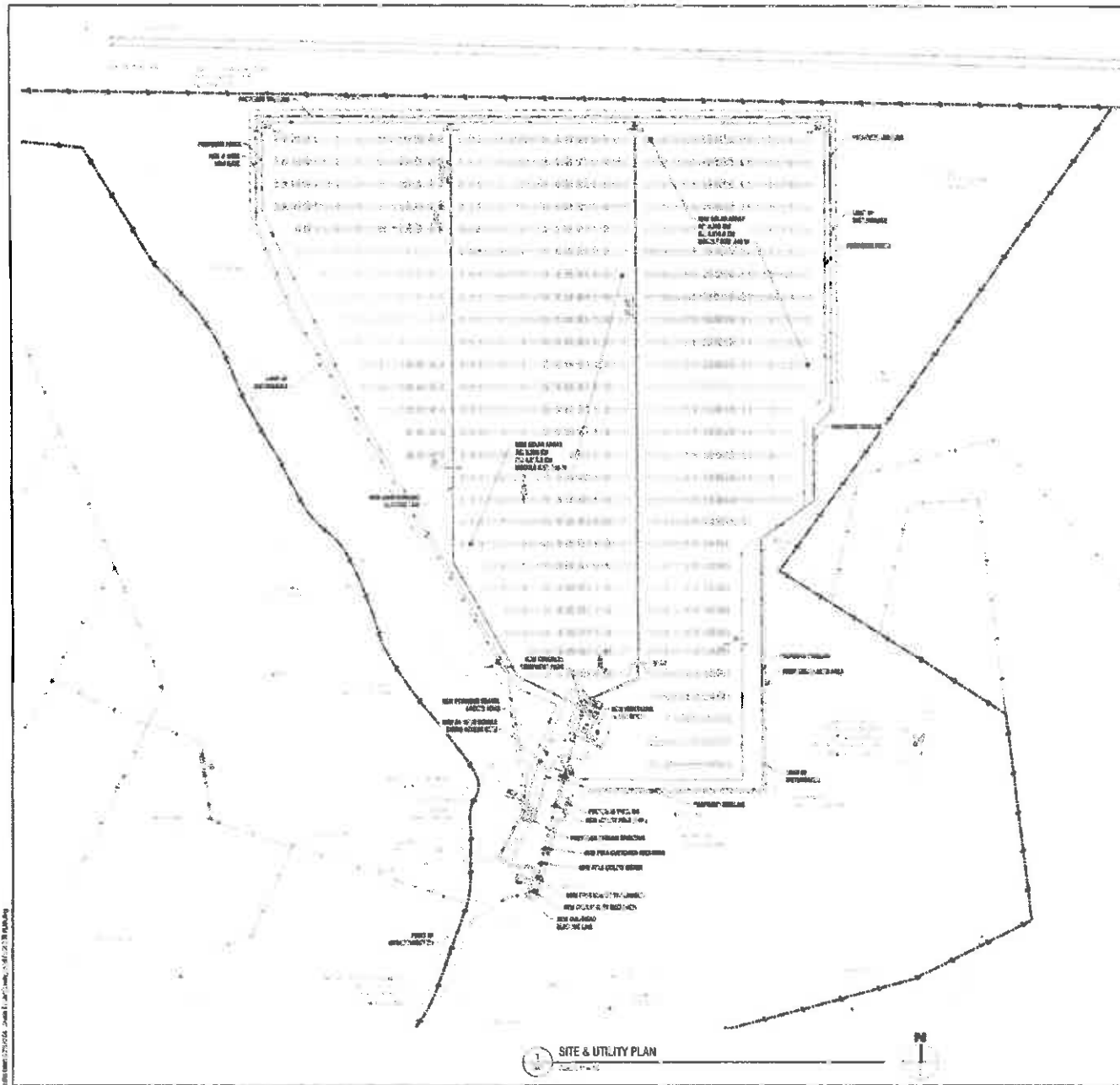
C200



OVERALL SITE PLAN
SCALE: 1" = 100'



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1 SITE & UTILITY PLAN

SITE NOTES

1. ALL UTILITIES SHALL BE DEEPENED TO 18" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
2. ALL UTILITIES SHALL BE DEEPENED TO 18" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
3. ALL UTILITIES SHALL BE DEEPENED TO 18" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
4. ALL UTILITIES SHALL BE DEEPENED TO 18" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.

UTILITY NOTES:

1. ALL UTILITIES SHALL BE DEEPENED TO 18" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
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3. ALL UTILITIES SHALL BE DEEPENED TO 18" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
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5. ALL UTILITIES SHALL BE DEEPENED TO 18" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.
6. ALL UTILITIES SHALL BE DEEPENED TO 18" BELOW FINISHED GRADE UNLESS OTHERWISE NOTED.

LEGEND

EXISTING	PROPOSED	DESCRIPTION
(Symbol)	(Symbol)	WATER
(Symbol)	(Symbol)	SEWER
(Symbol)	(Symbol)	STORMWATER
(Symbol)	(Symbol)	GAS
(Symbol)	(Symbol)	ELECTRICAL
(Symbol)	(Symbol)	TELEPHONE
(Symbol)	(Symbol)	NEW UTILITIES
(Symbol)	(Symbol)	EXISTING UTILITIES
(Symbol)	(Symbol)	NEW UTILITIES
(Symbol)	(Symbol)	EXISTING UTILITIES

QUANTITIES TABLE

QTY AND QUANTITY TABLE

ITEM	QTY	UNIT
WATER	100	LINE
SEWER	100	LINE
STORMWATER	100	LINE
GAS	100	LINE
ELECTRICAL	100	LINE
TELEPHONE	100	LINE
NEW UTILITIES	100	LINE
EXISTING UTILITIES	100	LINE
NEW UTILITIES	100	LINE
EXISTING UTILITIES	100	LINE

NOTE: QUANTITIES ARE FOR INFORMATION ONLY AND SHALL BE VERIFIED BY THE CONTRACTOR.

TOWN PLANNING BOARD CHAIR	DATE
TOWN FIRE MARSHALL	DATE
TOWN ENGINEER	DATE



NOT FOR CONSTRUCTION

As a holder of the New York State License for Professional Engineering, I hereby certify that I am a duly Licensed Professional Engineer in the State of New York and that I am the author of the design and construction documents herein. I am not providing any services to the client in any other capacity.

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NY CDG ONEIDA 2, LLC.
6874 MARTIN STREET, CITY OF ONEIDA, NY 13624

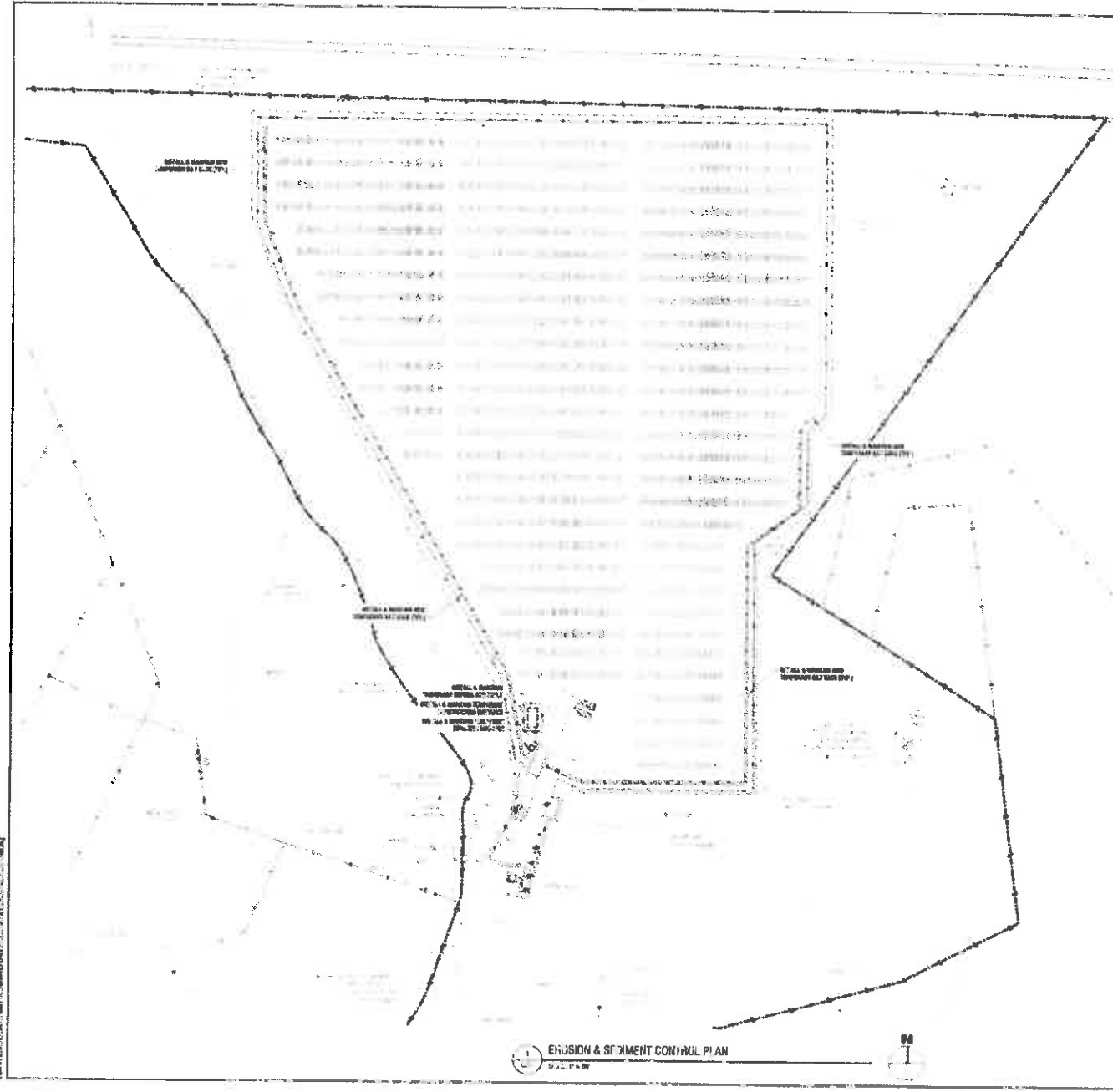


ONEIDA 2
6874 MARTIN STREET, CITY OF ONEIDA, NY 13624

NO.	REVISION	DATE
1	ISSUE FOR PERMIT	08/15/18
2	ISSUE FOR PERMIT	08/15/18
3	ISSUE FOR PERMIT	08/15/18
4	ISSUE FOR PERMIT	08/15/18
5	ISSUE FOR PERMIT	08/15/18
6	ISSUE FOR PERMIT	08/15/18
7	ISSUE FOR PERMIT	08/15/18
8	ISSUE FOR PERMIT	08/15/18
9	ISSUE FOR PERMIT	08/15/18
10	ISSUE FOR PERMIT	08/15/18

SITE & UTILITY PLAN

C201



EROSION & SEDIMENT CONTROL NOTES

1. ALL EROSION & SEDIMENT CONTROL MEASURES SHALL BE INSTALLED PRIOR TO THE START OF CONSTRUCTION AND MAINTAINED THROUGHOUT THE CONSTRUCTION PERIOD. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE MAINTENANCE AND REPAIR OF ALL EROSION & SEDIMENT CONTROL MEASURES.
2. EROSION & SEDIMENT CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED TO PREVENT EROSION AND SEDIMENTATION OF ADJACENT AREAS AND TO PREVENT POLLUTION OF ADJACENT AREAS.
3. EROSION & SEDIMENT CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED TO PREVENT EROSION AND SEDIMENTATION OF ADJACENT AREAS AND TO PREVENT POLLUTION OF ADJACENT AREAS.
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14. EROSION & SEDIMENT CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED TO PREVENT EROSION AND SEDIMENTATION OF ADJACENT AREAS AND TO PREVENT POLLUTION OF ADJACENT AREAS.
15. EROSION & SEDIMENT CONTROL MEASURES SHALL BE INSTALLED AND MAINTAINED TO PREVENT EROSION AND SEDIMENTATION OF ADJACENT AREAS AND TO PREVENT POLLUTION OF ADJACENT AREAS.

QUANTITIES TABLE	
EROSION CONTROL QUANTITIES	
STALL & GATED SWD (COMBINATION 1) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 2) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 3) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 4) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 5) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 6) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 7) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 8) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 9) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 10) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 11) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 12) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 13) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 14) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 15) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 16) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 17) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 18) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 19) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 20) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 21) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 22) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 23) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 24) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 25) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 26) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 27) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 28) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 29) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 30) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 31) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 32) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 33) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 34) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 35) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 36) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 37) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 38) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 39) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 40) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 41) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 42) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 43) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 44) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 45) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 46) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 47) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 48) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 49) (S. 10.77)	1 UNIT
STALL & GATED SWD (COMBINATION 50) (S. 10.77)	1 UNIT



NOT FOR CONSTRUCTION

NY CDG ONEIDA 2, LLC.
6401 MARTIN STREET, CITY OF PLANE, NY 12048

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ONEIDA 2
6401 MARTIN STREET, CITY OF PLANE, NY 12048

PROJECT SUMMARY	
PROJECT NUMBER	2110-02-01
DESIGNED BY	JAM
CHECKED BY	JCT
DATE	REVIEW
DATE	JULY 2021
ISSUED FOR	

EROSION & SEDIMENT CONTROL PLAN

C501

NOT FOR CONSTRUCTION

It is a violation of New York Penal Law Article 140 § 140.1(1) to tamper with any device which is used for the purpose of detecting, preventing or punishing the commission of any crime. Any person who violates this section shall be guilty of a crime in the second degree. A person who is convicted of this crime shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both such fine and imprisonment, or both such fine and imprisonment and such other punishment as the court may deem proper. This section shall not apply to any person who is acting in the normal course of his or her business and who is not acting in violation of any law.

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NY CDG ONEIDA 2, LLC.
6021 MARTIN STREET, CITY OF NAME, NY 13440

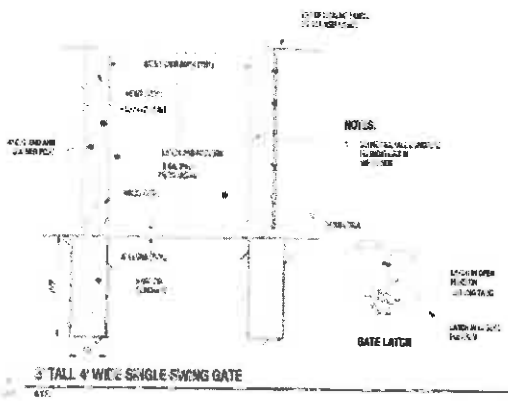


ONEIDA 2
6021 MARTIN STREET, CITY OF NAME, NY 13440

PROJECT NUMBER	2210188-04
DRAWN BY	JAA
CHECKED BY	JCT
DATE	REVIEW
DATE	JULY 2021
REVISION	

CONSTRUCTION DETAILS

C701



3' TALL 4' WIDE SINGLE SWING GATE

WARNING

ANYONE DAMAGING, PARALYZING, OR INTERFERING WITH THE OPERATION OF THIS FACILITY IS IN VIOLATION OF TITLE 18, UNITED STATES CODE SECTION 1360 AND PUNISHABLE BY 15 YEARS IMPRISONMENT AND \$50,000 FINE.

DANGER

HIGH VOLTAGE. KEEP OUT

WARNING

THESE FACILITIES ARE MONITORED BY VIDEO & ELECTRONIC SECURITY EQUIPMENT

NOTICE

NO CONSTRUCTION PERMITTED

ONEIDA 2 SOLAR ARRAY

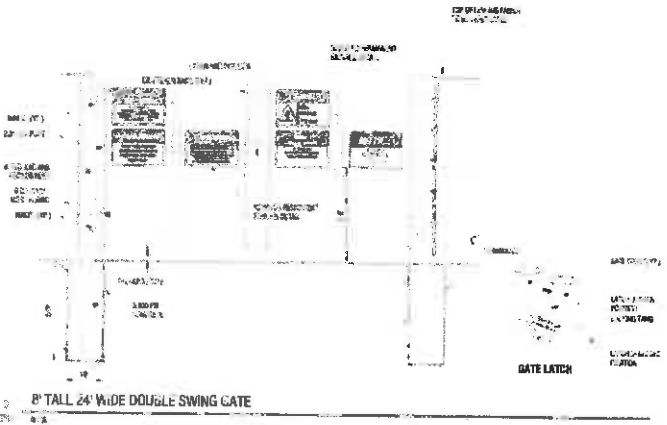
COMPANY LLC
FROM EMERGENCY CONTACT
NAME, PHONE, ADDRESS

NO TRESPASSING

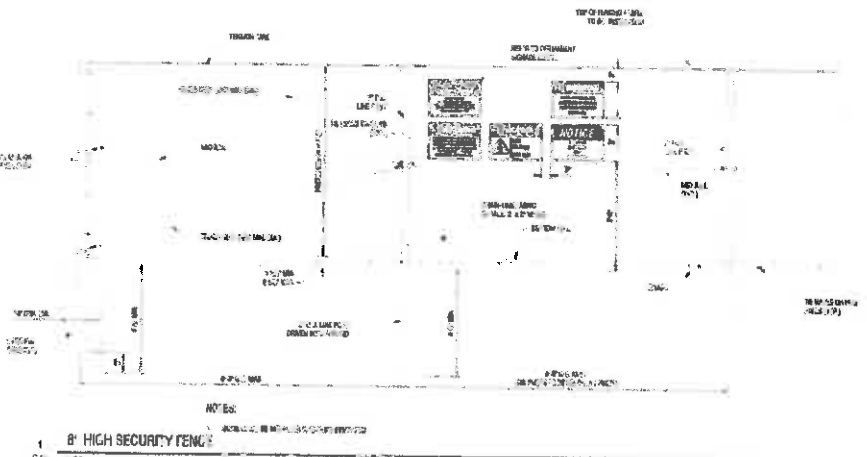
PRIVATE PROPERTY. CONSTRUCTION EVERY PROHIBITED. VIOLATING SHALL BE PROSECUTED UNDER AUTHORITY OF THE STATE OF NEW YORK PENAL LAW SECTION 140.10

PERMANENT SIGNAGE

1. ALL SIGNS SHALL BE 18" TALL
2. SIGNS SHALL BE 18" TALL AND 18" WIDE. THE MATERIAL SHALL BE 100% ALUMINUM OR STAINLESS STEEL
3. SIGNS SHALL BE MOUNTED TO THE WALL WITH 1/2" DIA. ANCHORS



8' TALL 24' WIDE DOUBLE SWING GATE



8' HIGH SECURITY FENCE

NOT FOR CONSTRUCTION

As shown on this drawing, the owner shall be responsible for the design and construction of the solar array system, including the design and construction of the solar array structure, solar array panels, solar array mounting hardware, and all other components of the solar array system. The owner shall also be responsible for the design and construction of the solar array system's electrical system, including the design and construction of the solar array inverters, solar array disconnects, and solar array monitoring system. The owner shall also be responsible for the design and construction of the solar array system's structural system, including the design and construction of the solar array structure's foundation, solar array structure's steel framing, and solar array structure's roof system. The owner shall also be responsible for the design and construction of the solar array system's electrical system, including the design and construction of the solar array inverters, solar array disconnects, and solar array monitoring system. The owner shall also be responsible for the design and construction of the solar array system's structural system, including the design and construction of the solar array structure's foundation, solar array structure's steel framing, and solar array structure's roof system.

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NY CDG ONEIDA 2, LLC
682 MAIN STREET, CITY OF ONEIDA, NY 13624

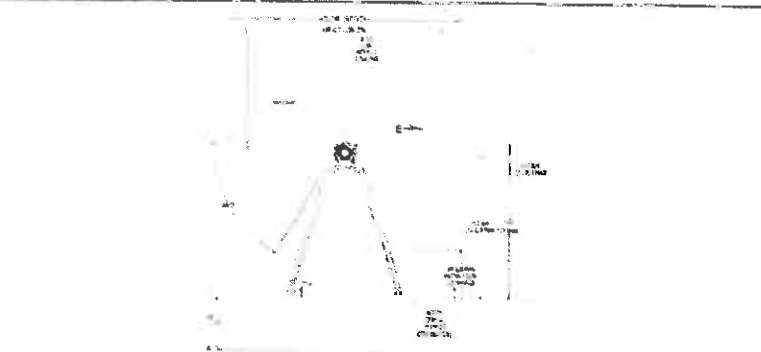


ONEIDA 2
682 MAIN STREET, CITY OF ONEIDA, NY 13624

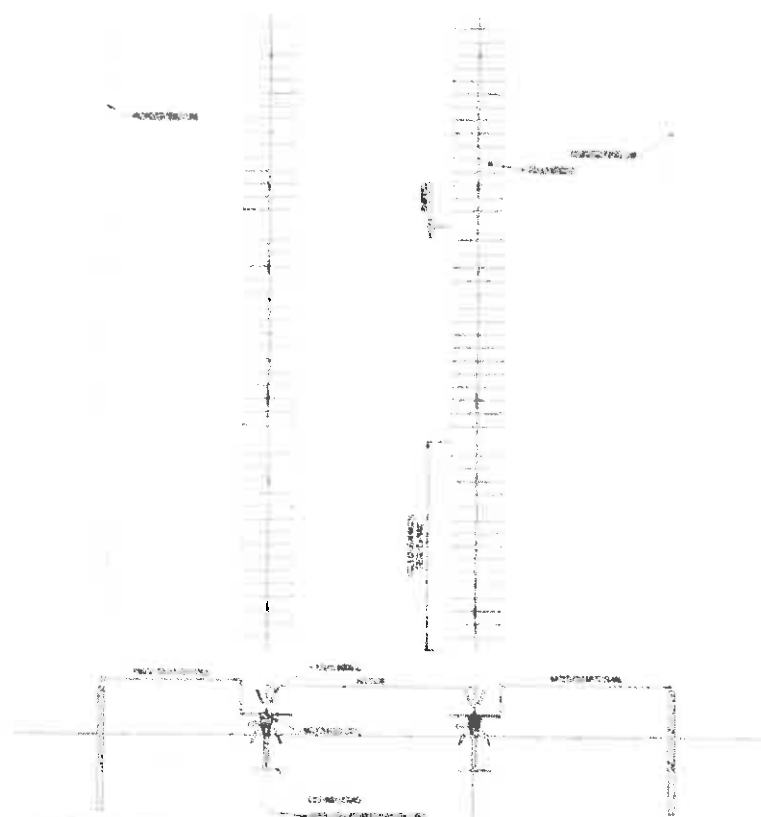
DATE ISSUED	2/21/10 04
DESIGNER	JAA
CHECKER	JCT
DATE	2/21/10

CONSTRUCTION DETAILS

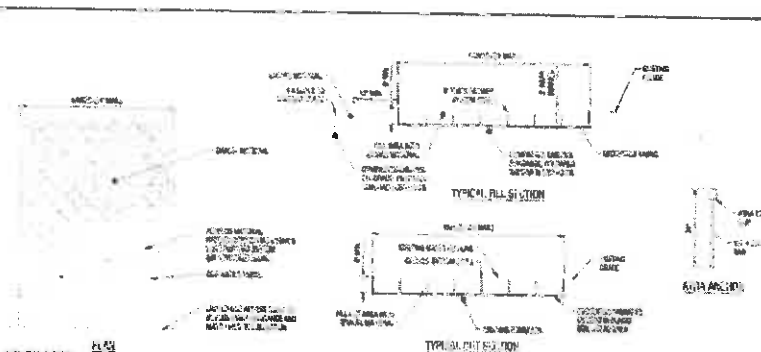
C703



3 TYPICAL PANEL AND RACK DIMENSIONS



2 TYPICAL SITE LAYOUT



4 TYPICAL PANEL SECTION

GENERAL NOTES:

1. THE OWNER SHALL PROVIDE ALL NECESSARY INFORMATION AND PERMITS FOR THE INSTALLATION AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM.
2. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S ELECTRICAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY INVERTERS, SOLAR ARRAY DISCONNECTS, AND SOLAR ARRAY MONITORING SYSTEM.
3. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S STRUCTURAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY STRUCTURE'S FOUNDATION, SOLAR ARRAY STRUCTURE'S STEEL FRAMING, AND SOLAR ARRAY STRUCTURE'S ROOF SYSTEM.
4. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S ELECTRICAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY INVERTERS, SOLAR ARRAY DISCONNECTS, AND SOLAR ARRAY MONITORING SYSTEM.

LIMITED MATERIAL NOTES:

1. THE OWNER SHALL PROVIDE ALL NECESSARY INFORMATION AND PERMITS FOR THE INSTALLATION AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM.
2. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S ELECTRICAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY INVERTERS, SOLAR ARRAY DISCONNECTS, AND SOLAR ARRAY MONITORING SYSTEM.
3. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S STRUCTURAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY STRUCTURE'S FOUNDATION, SOLAR ARRAY STRUCTURE'S STEEL FRAMING, AND SOLAR ARRAY STRUCTURE'S ROOF SYSTEM.

WORKMANSHIP NOTES:

1. THE OWNER SHALL PROVIDE ALL NECESSARY INFORMATION AND PERMITS FOR THE INSTALLATION AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM.
2. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S ELECTRICAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY INVERTERS, SOLAR ARRAY DISCONNECTS, AND SOLAR ARRAY MONITORING SYSTEM.
3. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S STRUCTURAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY STRUCTURE'S FOUNDATION, SOLAR ARRAY STRUCTURE'S STEEL FRAMING, AND SOLAR ARRAY STRUCTURE'S ROOF SYSTEM.
4. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S ELECTRICAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY INVERTERS, SOLAR ARRAY DISCONNECTS, AND SOLAR ARRAY MONITORING SYSTEM.
5. THE OWNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY SYSTEM'S STRUCTURAL SYSTEM, INCLUDING THE DESIGN AND CONSTRUCTION OF THE SOLAR ARRAY STRUCTURE'S FOUNDATION, SOLAR ARRAY STRUCTURE'S STEEL FRAMING, AND SOLAR ARRAY STRUCTURE'S ROOF SYSTEM.

LIMITED USE PERMITS ADD: 33 ROAD - 0% TO 11% SLOPES

682 MAIN STREET, CITY OF ONEIDA, NY 13624

Determination of Significance - Type I and Unlisted Actions

SEQR Status: Type I Unlisted

Identify portions of EAF completed for this Project: Part 1 Part 2 Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information

Project SWPPP, Site Plan and Detail Drawings, Applicant Statements, FEMA Floodplain Maps, NYSDEC Environmental Mapper, NYSERDA Solar Guidebook, and Product Engineering Specifications.

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the
City of Rome Planning Board as lead agency that:

A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.d).

C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action: **Site Plan Approval for Construction of 18.3 Acre Solar Array**

Name of Lead Agency: **City of Rome Planning Board**

Name of Responsible Officer in Lead Agency: **Mark Esposito**

Title of Responsible Officer: **Chair**

Signature of Responsible Officer in Lead Agency: 

Date:

Signature of Preparer (if different from Responsible Officer) **Garret S. Wyckoff**

Digitally signed by Garret S. Wyckoff
Date: 2021.09.15 14:39:53 -04'00'

Date: **09/15/2021**

For Further Information:

Contact Person: **Garret S. Wyckoff**

Address: **198 N. Washington Street**

Telephone Number: **(315)339-7644**

E-mail: **Gwyckoff@RomeCityGov.**

For Type I Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either “Yes” or “No”. If the answer to the initial question is “Yes”, complete the sub-questions that follow. If the answer to the initial question is “No”, proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Applicant/Sponsor Information.

Name of Action or Project: NY CDG Oneida 2, LLC		
Project Location (describe, and attach a general location map): 6821 Martin Road, City of Rome, Oneida County - See attached USGS topo location map.		
Brief Description of Proposed Action (include purpose or need): NY CDG Oneida 2 is developing plans for the installation of a 5 megawatt (MW) alternating current (AC) photovoltaic array on approximately 18.3 acres of undeveloped industrial zoned land on one parcel totaling approximately 41.3 acres, located at 6821 Martin Road in the City of Rome, Oneida County. (Tax ID 259.001-1-002) The array will include approximately 145 free standing tracking solar table modules consisting of about 11,890 panels. These structures will stand about 12 feet in height. The system will also include new electrical equipment, accessories, concrete pads for equipment, and a new gravel access drive. The maximum depth of excavation will not exceed four feet, but the helix sacrews (or H-piles) of the solar tables will be installed at a depth of approximately 8-10 feet. Minimal tree clearing is expected, and only 0.2 acres of new impervious surface will be created as a result of this project. The purpose of this project is to create clean, renewable energy for local residences and businesses. For additional details, see attached USGS location map and site drawings.		
Name of Applicant/Sponsor: NY CDG Oneida 2, LLC (contact Bogdan Dinu)		Telephone: 226-753-2847
		E-Mail: Bogdan.dinu@bwsolar.com
Address: 850 New Burton Road		
City/PO: Dover	State: Delaware	Zip Code: 19904
Project Contact (if not same as sponsor; give name and title/role):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	PILOT Agreement	Pending
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Site Plan Approval, Special Use permit	Pending
c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
d. Other local agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	City of Rome Building Permit	Pending
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Industrial Development Agency (PILOT); Oneida County Planning Dept. (239-m review)	Pending
f. Regional agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Rome City School District - PILOT	Pending
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYSERDA- funding; SHPO- signoff; NYSDEC-SWPPP	Pending
h. Federal agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	USACE - wetland jurisdictional determination	Pending
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

C. Planning and Zoning

C.1. Planning and zoning actions.	
Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<ul style="list-style-type: none"> • If Yes, complete sections C, F and G. • If No, proceed to question C.2 and complete all remaining sections and questions in Part 1 	
C.2. Adopted land use plans.	
a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes, identify the plan(s): NYS Heritage Areas: Mohawk Valley Heritage Corridor _____ _____	
c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, identify the plan(s): _____ _____	

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. Yes No
 If Yes, what is the zoning classification(s) including any applicable overlay district?
 IG - General Industrial _____

b. Is the use permitted or allowed by a special or conditional use permit? Yes No

c. Is a zoning change requested as part of the proposed action? Yes No
 If Yes,
 i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? Rome City School District

b. What police or other public protection forces serve the project site?
Rome Police Department, Oneida County Sheriffs Department

c. Which fire protection and emergency medical services serve the project site?
Rome Fire Department, Stanwix Heights Volunteer Fire Department

d. What parks serve the project site?
Harr-Pint Field (0.65 mies); Bell- Islae Park (0.75 miles); Riverside Park (1.0 mile)

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)? The project is a Community Distributed Generation Solar Energy System _____

b. a. Total acreage of the site of the proposed action? +/- 18.3 acres
 b. Total acreage to be physically disturbed? +/- 17.5 acres
 c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? +/- 41.3 acres

c. Is the proposed action an expansion of an existing project or use? Yes No
 i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? Yes No
 If Yes,
 i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types) _____
 ii. Is a cluster/conservation layout proposed? Yes No
 iii. Number of lots proposed? _____
 iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will the proposed action be constructed in multiple phases? Yes No
 i. If No, anticipated period of construction: +/- 6 months
 ii. If Yes:
 • Total number of phases anticipated _____
 • Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
 • Anticipated completion date of final phase _____ month _____ year
 • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? Yes No
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? Yes No
 If Yes,

i. Total number of structures Approximately 145 solar table modules with approximately 11,890 panels.

ii. Dimensions (in feet) of largest proposed structure: +/- 12' height; +/- 3' width; and +/- 7' length

iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? Yes No
 If Yes,

i. Purpose of the impoundment: _____

ii. If a water impoundment, the principal source of the water: Ground water Surface water streams Other specify: _____

iii. If other than water, identify the type of impounded/contained liquids and their source. _____

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres

v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): _____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) Yes No
 If Yes:

i. What is the purpose of the excavation or dredging? _____

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. _____

iv. Will there be onsite dewatering or processing of excavated materials? Yes No
 If yes, describe. _____

v. What is the total area to be dredged or excavated? _____ acres

vi. What is the maximum area to be worked at any one time? _____ acres

vii. What would be the maximum depth of excavation or dredging? _____ feet

viii. Will the excavation require blasting? Yes No

ix. Summarize site reclamation goals and plan: _____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? Yes No
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): LaBella performed a wetland delineation in March, 2021. The project has been designed to avoid impacting identified wetlands.

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will the proposed action cause or result in disturbance to bottom sediments? Yes No
If Yes, describe: _____

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation? Yes No
If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? Yes No
If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? Yes No
If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No
- Do existing lines serve the project site? Yes No

iii. Will line extension within an existing district be necessary to supply the project? Yes No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? Yes No
If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? Yes No
If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? Yes No
If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? Yes No
- Is the project site in the existing district? Yes No
- Is expansion of the district needed? Yes No

- Do existing sewer lines serve the project site? Yes No
 - Will a line extension within an existing district be necessary to serve the project? Yes No
- If Yes:
- Describe extensions or capacity expansions proposed to serve this project: _____

- iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? Yes No
- If Yes:
- Applicant/sponsor for new district: _____
 - Date application submitted or anticipated: _____
 - What is the receiving water for the wastewater discharge? _____

- v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):
- _____

- vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____
- _____

- e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? Yes No

- If Yes:
- i. How much impervious surface will the project create in relation to total size of project parcel?
- _____ Square feet or +/- 0.1 acres (impervious surface)
- _____ Square feet or +/- 41.3 acres (parcel size)
- ii. Describe types of new point sources. Equipment pads

- iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?
- On site stormwater management structures (Filter Strips) A Storm Water Pollution Protection Plan (SWPPP) will bw submitted as part of this application.

- If to surface waters, identify receiving water bodies or wetlands: _____
N/A. Runoff will be directed toward filter strips
- Will stormwater runoff flow to adjacent properties? Yes No

- iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? Yes No

- f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? Yes No

- If Yes, identify:
- i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)
- Mobile sources during project operations will include light vehicles for regular work. Specialized repair may require heavier duty equipment.
- ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)
- Contractor may elect to provide an on-site generator during construction activities.
- iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)
- None expected

- g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? Yes No

- If Yes:
- i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) Yes No

- ii. In addition to emissions as calculated in the application, the project will generate:
- _____ Tons/year (short tons) of Carbon Dioxide (CO₂)
 - _____ Tons/year (short tons) of Nitrous Oxide (N₂O)
 - _____ Tons/year (short tons) of Perfluorocarbons (PFCs)
 - _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆)
 - _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
 - _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? Yes No

If Yes:

- i. Estimate methane generation in tons/year (metric): _____
- ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? Yes No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? Yes No

If Yes:

- i. When is the peak traffic expected (Check all that apply): Morning Evening Weekend
 Randomly between hours of _____ to _____.
- ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? Yes No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____

vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site? Yes No

vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? Yes No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? Yes No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? Yes No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____

iii. Will the proposed action require a new, or an upgrade, to an existing substation? Yes No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: _____ Potentially 7AM - 7 PM
- Saturday: _____ Minimal, if any
- Sunday: _____ Minimal, if any
- Holidays: _____ Minimal, if any

ii. During Operations:

- Monday - Friday: _____ 24 hours
- Saturday: _____ 24 hours
- Sunday: _____ 24 hours
- Holidays: _____ 24 hours

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? Yes No
 If yes:
 i. Provide details including sources, time of day and duration:
 Intermittent construction noises could exceed ambient noise levels for short periods of time during the day. Once operational, noise levels are expected to be within existing levels.

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No
 Describe: _____

n. Will the proposed action have outdoor lighting? Yes No
 If yes:
 i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No
 Describe: _____

o. Does the proposed action have the potential to produce odors for more than one hour per day? Yes No
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures:

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? Yes No
 If Yes:
 i. Product(s) to be stored _____
 ii. Volume(s) _____ per unit time _____ (e.g., month, year)
 iii. Generally, describe the proposed storage facilities: _____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? Yes No
 If Yes:
 i. Describe proposed treatment(s):

ii. Will the proposed action use Integrated Pest Management Practices? Yes No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? Yes No
 If Yes:
 i. Describe any solid waste(s) to be generated during construction or operation of the facility:
 • Construction: _____ TBD tons per _____ week (unit of time)
 • Operation : _____ 0 tons per _____ week (unit of time)
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:
 • Construction: Materials will arrive by shipping container, minimizing waste. Pallets and protective covers will be recycled as feasible.

 • Operation: No solid waste is produced

 iii. Proposed disposal methods/facilities for solid waste generated on-site:
 • Construction: TBD- The exact disposal method will be determined by the contractor and will follow all applicable NYSDEC guidelines and standards

 • Operation: No solid waste is produced

s. Does the proposed action include construction or modification of a solid waste management facility? Yes No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing: _____

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? Yes No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? Yes No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility: _____

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

- Urban Industrial Commercial Residential (suburban) Rural (non-farm)
 Forest Agriculture Aquatic Other (specify): Undeveloped, Cell tower, Marina

ii. If mix of uses, generally describe: _____

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	1.1	1.2	+0.1
• Forested	16.4	10.4	-6
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	21.6	9.2	-12.4
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	2.1	2.1	0
• Wetlands (freshwater or tidal)	0.1	0.1	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Solar Array (panels with seed mix underneath, excluding impervious areas)</u>	0	18.3	+18.3

c. Is the project site presently used by members of the community for public recreation? Yes No
 i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? Yes No
 If Yes,
 i. Identify Facilities: _____

e. Does the project site contain an existing dam? Yes No
 If Yes:
 i. Dimensions of the dam and impoundment:
 • Dam height: _____ feet
 • Dam length: _____ feet
 • Surface area: _____ acres
 • Volume impounded: _____ gallons OR acre-feet
 ii. Dam's existing hazard classification: _____
 iii. Provide date and summarize results of last inspection: _____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? Yes No
 If Yes:
 i. Has the facility been formally closed? Yes No
 • If yes, cite sources/documentation: _____
 ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____
 iii. Describe any development constraints due to the prior solid waste activities: _____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? Yes No
 If Yes:
 i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? Yes No
 If Yes:
 i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: Yes No
 Yes – Spills Incidents database Provide DEC ID number(s): _____
 Yes – Environmental Site Remediation database Provide DEC ID number(s): _____
 Neither database
 ii. If site has been subject of RCRA corrective activities, describe control measures: _____
 iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? Yes No
 If yes, provide DEC ID number(s): 633037, V00077, E633060, E633064, E633065, 633007
 iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):
 The project site has no history of contamination. It is adjacent to some spill sites, as well as being within 2000 feet of the sites listed above.

v. Is the project site subject to an institutional control limiting property uses? Yes No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? Yes No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ >5 feet

b. Are there bedrock outcroppings on the project site? Yes No
 If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %

c. Predominant soil type(s) present on project site:

Wakeville Silt Loam	_____	100 %
_____	_____	%
_____	_____	%

d. What is the average depth to the water table on the project site? Average: _____ 1 feet

e. Drainage status of project site soils: Well Drained: _____ % of site
 Moderately Well Drained: _____ % of site
 Poorly Drained 100 % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: _____ 100 % of site
 10-15%: _____ % of site
 15% or greater: _____ % of site

g. Are there any unique geologic features on the project site? Yes No
 If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? Yes No

ii. Do any wetlands or other waterbodies adjoin the project site? Yes No
 If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? Yes No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 877-1, 876-547 Classification C
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Approximate Size +/- 0.1 Ac
- Wetland No. (if regulated by DEC) _____

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? Yes No
 If yes, name of impaired water body/bodies and basis for listing as impaired: _____
 Name - Pollutants - Uses: Mohawk River, Main Stem – Pathogens; D.O./Oxygen Demand; Aesthetics; Metals – Recreation; Aquatic Life

i. Is the project site in a designated Floodway? Yes No

j. Is the project site in the 100-year Floodplain? Yes No

k. Is the project site in the 500-year Floodplain? Yes No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? Yes No
 If Yes:

i. Name of aquifer: Principal Aquifer

<p>m. Identify the predominant wildlife species that occupy or use the project site:</p> <p>Squirrels, rabbits, raccoons _____ woodchucks, chipmunks, rodents _____ deer, fox, coyote, crows, songbirds _____</p> <p>raptors, frogs, & snakes _____ _____ _____</p>	
<p>n. Does the project site contain a designated significant natural community? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p style="margin-left: 20px;">ii. Source(s) of description or evaluation: _____</p> <p style="margin-left: 20px;">iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres 	
<p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</p> <p>_____</p>	
<p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p> <p>_____</p>	
<p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p> <p>_____</p>	
E.3. Designated Public Resources On or Near Project Site	
<p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes, provide county plus district name/number: _____</p>	
<p>b. Are agricultural lands consisting of highly productive soils present? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p style="margin-left: 20px;">i. If Yes: acreage(s) on project site? _____</p> <p style="margin-left: 20px;">ii. Source(s) of soil rating(s): _____</p>	
<p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p style="margin-left: 20px;">ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p> <p>_____</p>	
<p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>If Yes:</p> <p style="margin-left: 20px;">i. CEA name: _____</p> <p style="margin-left: 20px;">ii. Basis for designation: _____</p> <p style="margin-left: 20px;">iii. Designating agency and date: _____</p>	

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
If Yes:	
<i>i.</i> Nature of historic/archaeological resource: <input type="checkbox"/> Archaeological Site <input type="checkbox"/> Historic Building or District	
<i>ii.</i> Name: <u>New York State Barge Canal Historic District</u>	
<i>iii.</i> Brief description of attributes on which listing is based: <u>CRIS website</u>	
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
g. Have additional archaeological or historic site(s) or resources been identified on the project site?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes:	
<i>i.</i> Describe possible resource(s): _____	
<i>ii.</i> Basis for identification: _____	
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes:	
<i>i.</i> Identify resource: _____	
<i>ii.</i> Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____	
<i>iii.</i> Distance between project and resource: _____ miles.	
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If Yes:	
<i>i.</i> Identify the name of the river and its designation: _____	
<i>ii.</i> Is the activity consistent with development restrictions contained in 6NYCRR Part 666?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	

F. Additional Information

Attach any additional information which may be needed to clarify your project.

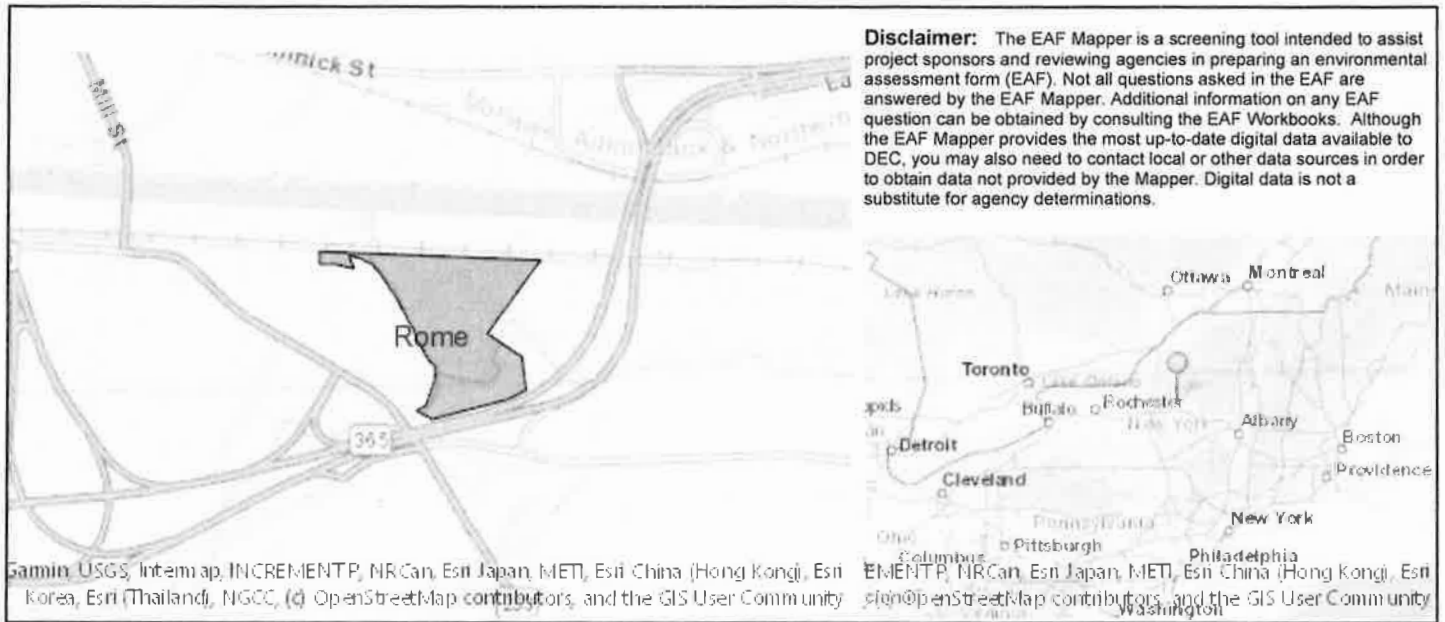
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

I certify that the information provided is true to the best of my knowledge.

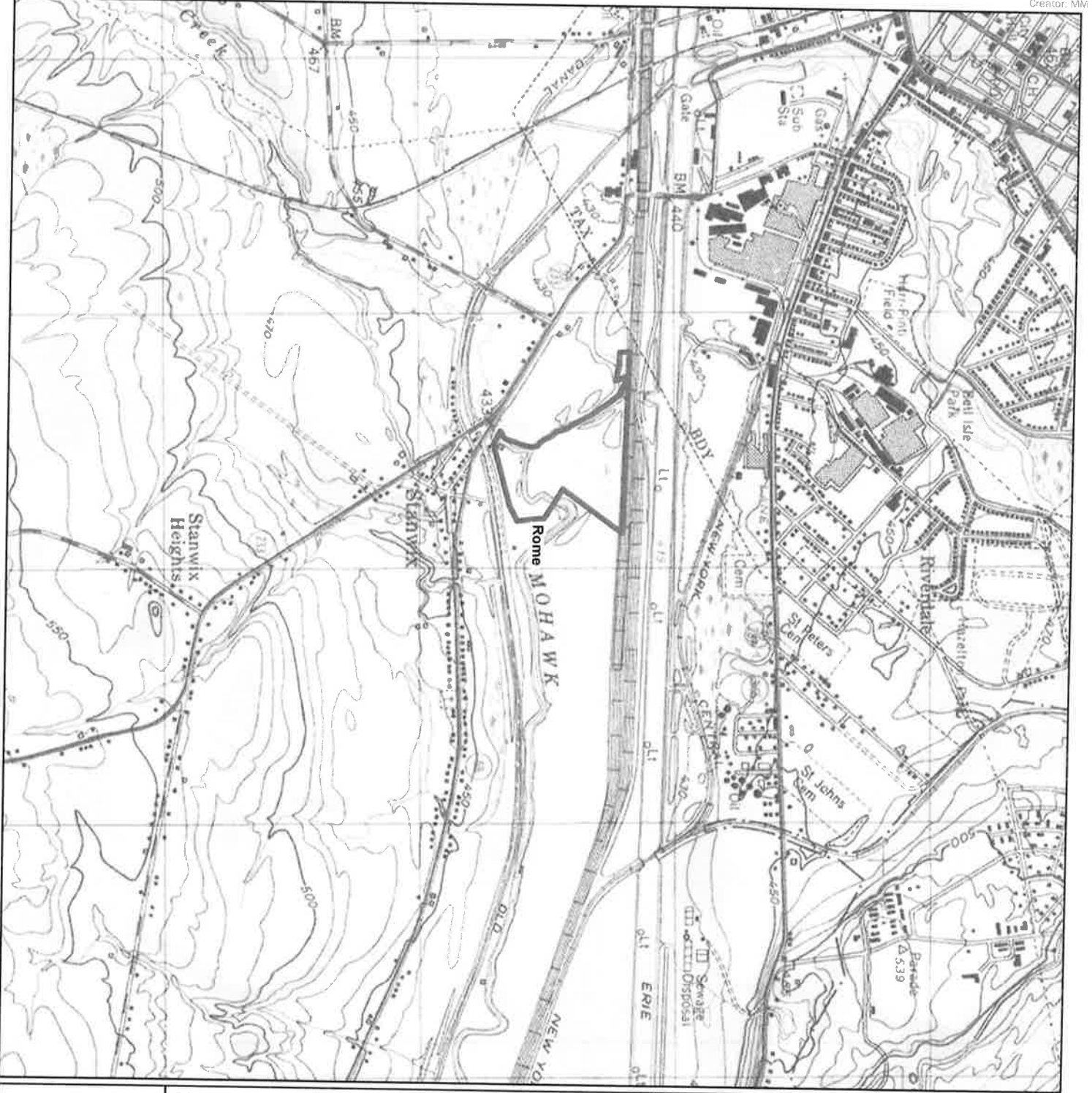
Applicant/Sponsor Name Bogdan Dinu Date 2021-07-15

Signature  Title Project Developer



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: Mohawk Valley Heritage Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	633037, V00077, E633060, E633064, E633065, 633007
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	877-1, 876-547
E.2.h.iv [Surface Water Features - Stream Classification]	C
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters
E.2.h.v [Impaired Water Bodies]	Yes

E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses: Mohawk River, Main Stem – Pathogens; D.O./Oxygen Demand; Aesthetics; Metals – Recreation; Aquatic Life
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National or State Register of Historic Places or State Eligible Sites - Name]	New York State Barge Canal Historic District
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No





BW Solar

**Oneida 2
Solar**
6821 Martin Road
Rome, New York



Legend

-  Municipal Boundary
-  Study Area

Sources: BW Solar 2021; Labella 2021; Oneida County 2020; USGS Rome Topo Quad 1988.

**USGS
Location Map**

Labella Project No: 2210199.04
Date: July 2021

ONEIDA 2

6821 MARTIN STREET
ROME, NY 13440



CIVIL DRAWING INDEX

- 000 GENERAL NOTES
- 010 TOTAL PROJECT AREA AND PERMITS PLAN
- 020 CIVIL SITE PLAN
- 030 SITE & CONCRETE
- 040 SOLAR PANEL FOUNDATION PLAN
- 050 LAYOUT PLAN
- 060 ELECTRICAL PLAN
- 070 SURVEILLANCE PLAN
- 080 CONSTRUCTION PLAN

NY CDG ONEIDA 2, LLC.

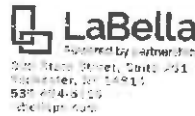
850 NEW BURTON ROAD, SUITE 201

DOVER, DE 19904

PROJECT NO: 2210199.04

JULY 2021

REVISED PER PLAN 2021



STATE OF NY
APPROVAL

NY CDG ONEIDA 2, LLC
PROJECT NO. 2210199.04

NY CDG ONEIDA 2, LLC
850 NEW BURTON ROAD, SUITE 201
DOVER, DE 19904

SECTION 01000 - GENERAL
1.01 SUMMARY
A. Section Includes
1. All work under contract
2. Construction of the project in accordance with the contract documents
3. Construction of the project in accordance with the contract documents
4. Construction of the project in accordance with the contract documents
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1.02 REFERENCES

1.03 RELATED SECTIONS

1.04 SUBMITTALS

1.05 EXECUTION

1.06 MAINTENANCE

1.07 TESTING

1.08 PROTECTION

1.09 PAINTS AND FINISHES

1.10 DEMOLITION

1.11 UTILITIES

1.12 SIGNAGE

1.13 SPECIALTIES

1.14 FURNITURE

1.15 CASEWORK

1.16 PARTITIONS

1.17 GLASS

1.18 METALS

1.19 MASONRY

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1.21 FLOORING

1.22 CEILING

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1.24 ROOFING

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1.26 ELECTRICAL

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1.28 SECURITY

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1.30 SPECIALTIES

1.31 FURNITURE

1.32 CASEWORK

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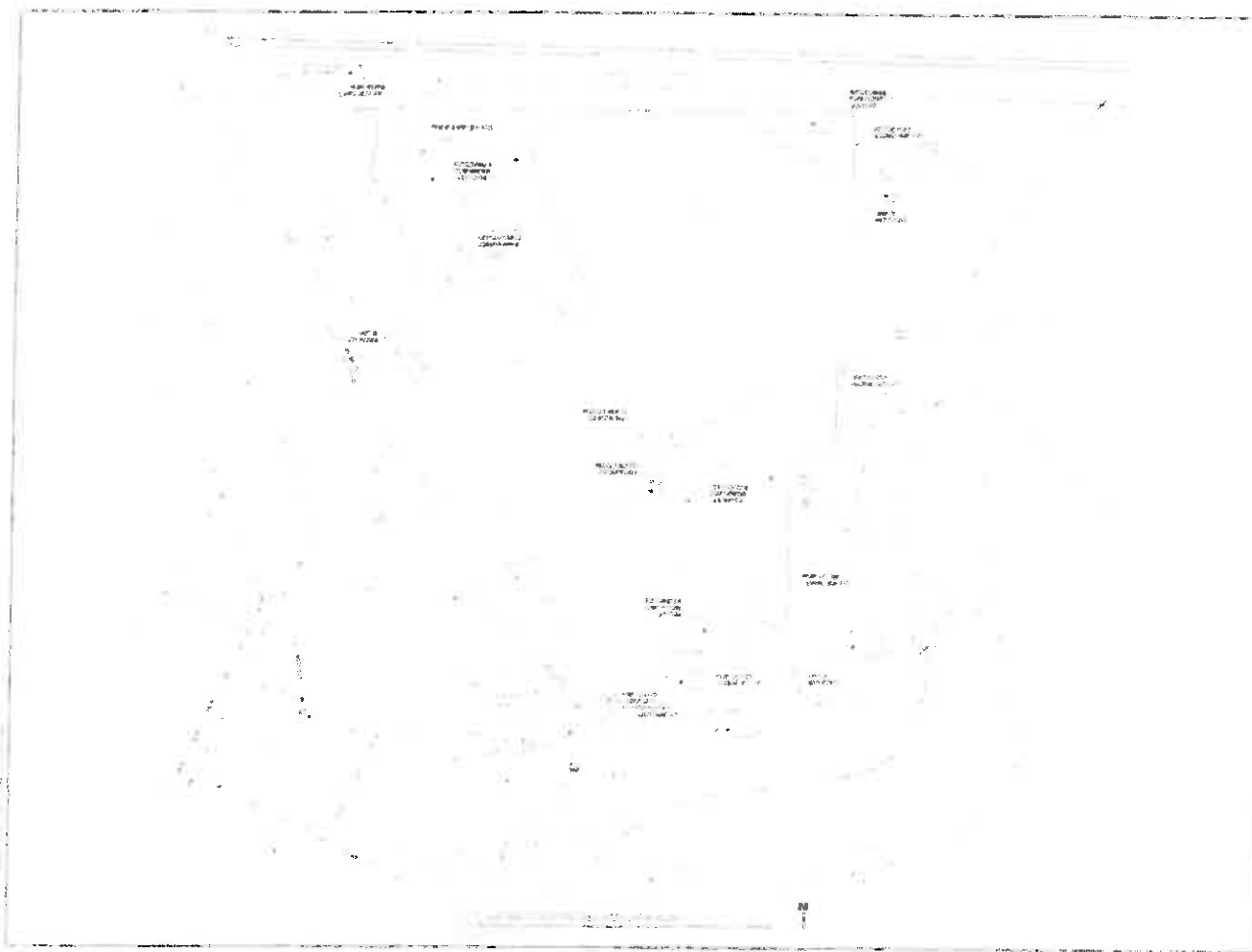
3.47 ELECTRICAL

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C001



LaBella
 CONSULTANTS

Project: [Illegible]
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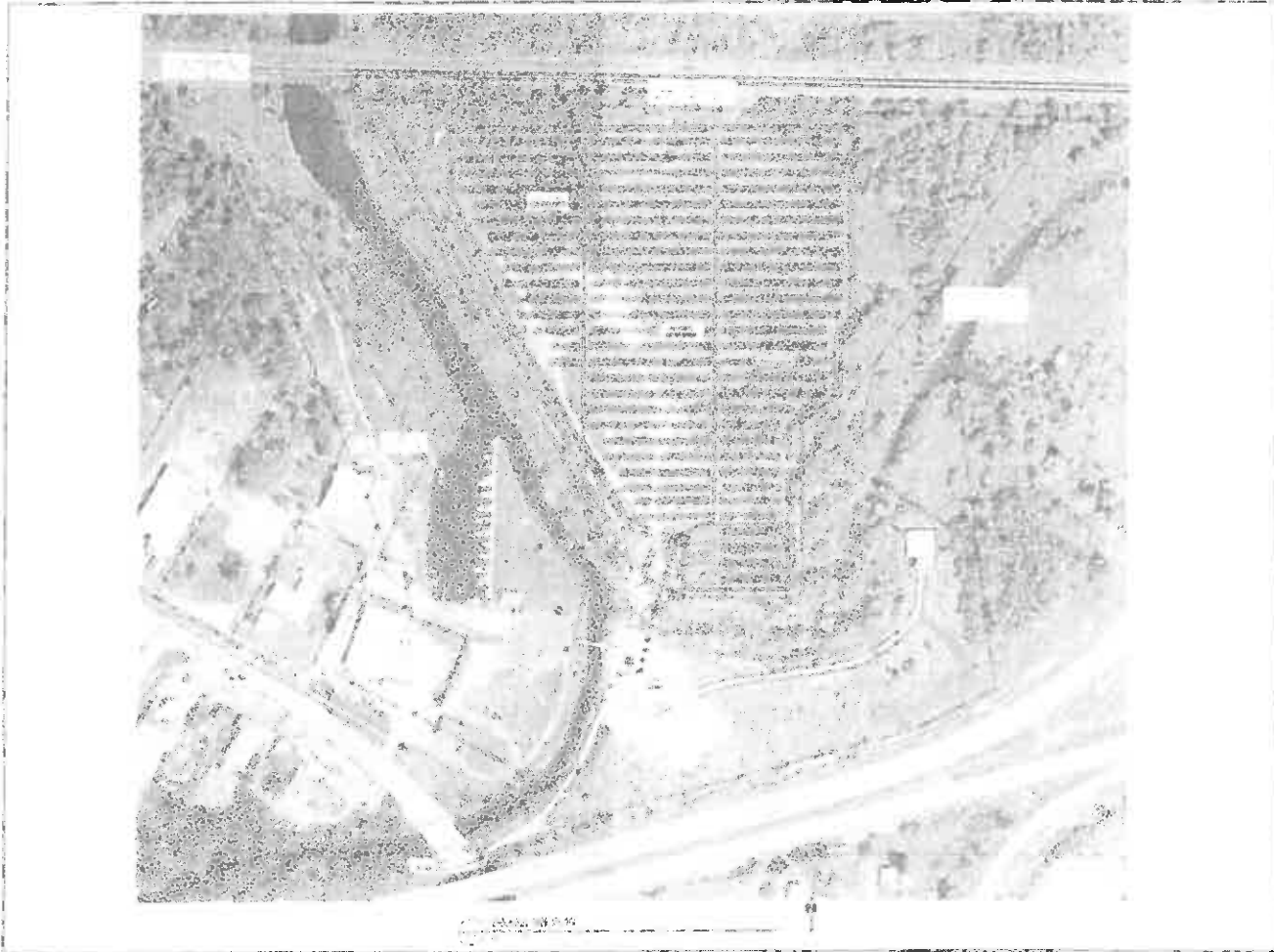
BY: [Illegible]

NEW YORK AIR
 DISTRICT

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THE CITY ENGINEER'S OFFICE
 DISTRICT OF COLUMBIA

C101



LaBella
 Environmental Solutions

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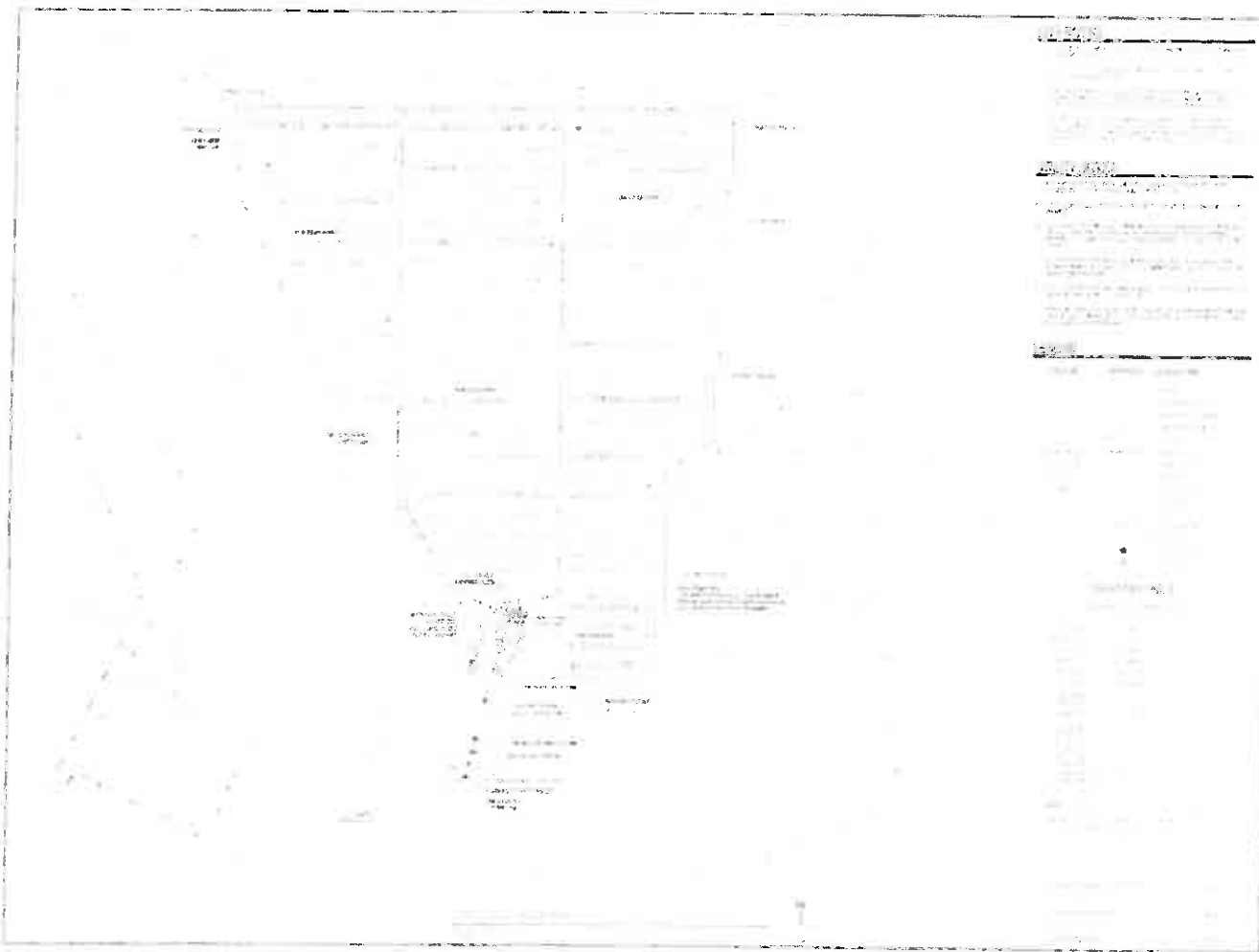
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ONE-ALL SITE PLAN

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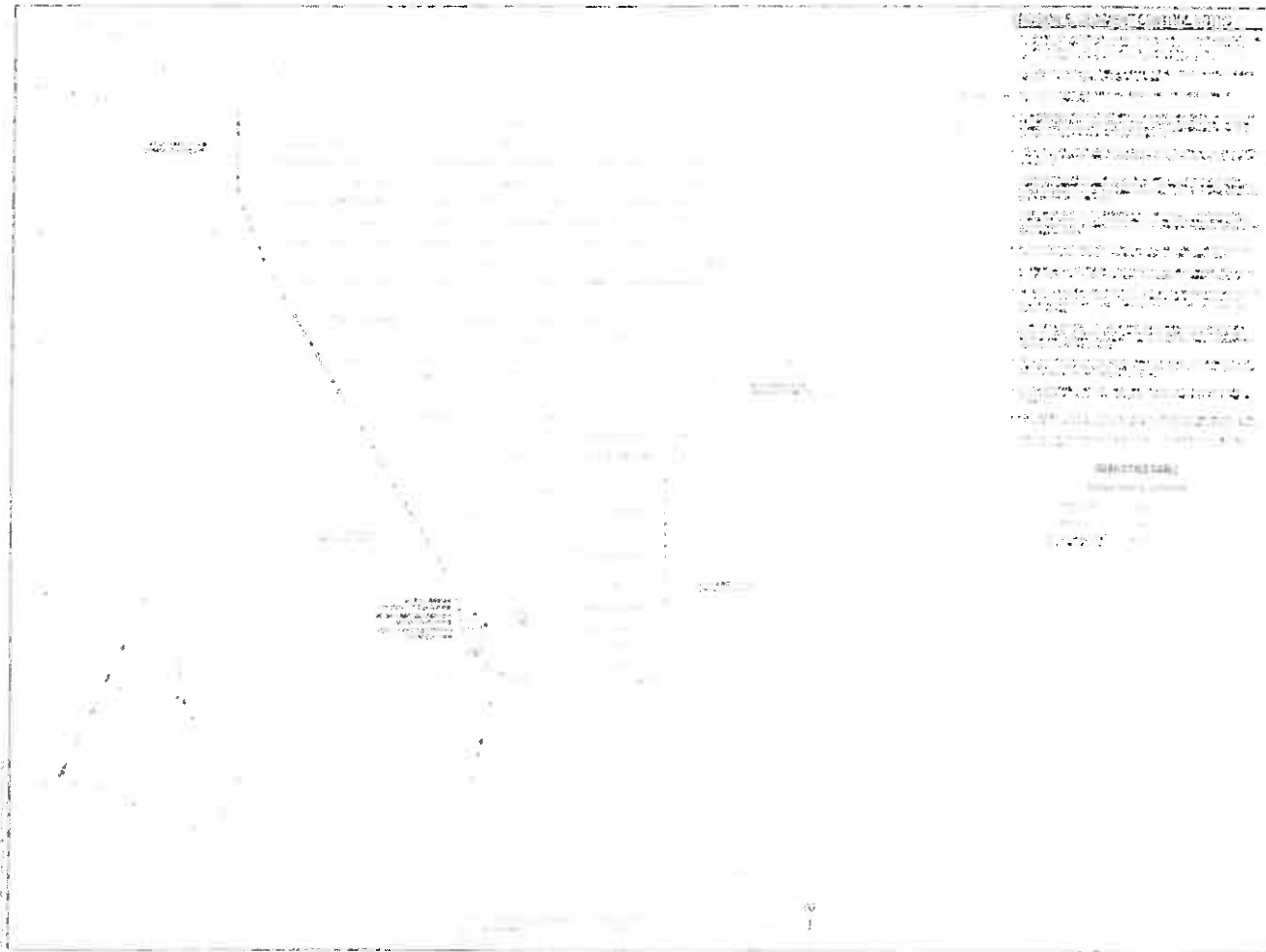
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PROJECT	
Name	
Address	
City	
County	
State	
Zip	

PROJECT NO. 123456
DATE: 12/15/2023
SCALE: 1" = 20'

W/ 10' SIDEWALK
NEW DRIVE
EXISTING DRIVE

W/ 10' SIDEWALK

C201



TECHNICAL SPECIFICATIONS

1. The storage rack system is designed to hold up to 100 kg per shelf.

2. The system is made of high-quality steel and is suitable for use in libraries and archives.

3. The shelves are adjustable and can be moved up or down to accommodate books of different heights.

4. The system is easy to assemble and disassemble.

5. The system is suitable for use in both indoor and outdoor environments.

6. The system is available in various sizes and configurations to meet different requirements.

7. The system is designed to be fire-resistant and to provide protection against theft.

8. The system is suitable for use in both residential and commercial environments.

9. The system is designed to be durable and long-lasting.

10. The system is suitable for use in both indoor and outdoor environments.

INSTALLATION

1. The storage rack system should be installed on a flat, level surface.

2. The system should be installed in a well-ventilated area.

3. The system should be installed in a dry area.

4. The system should be installed in a secure area.

5. The system should be installed in a well-lit area.

6. The system should be installed in a well-ventilated area.

7. The system should be installed in a dry area.

8. The system should be installed in a secure area.

9. The system should be installed in a well-lit area.

10. The system should be installed in a well-ventilated area.



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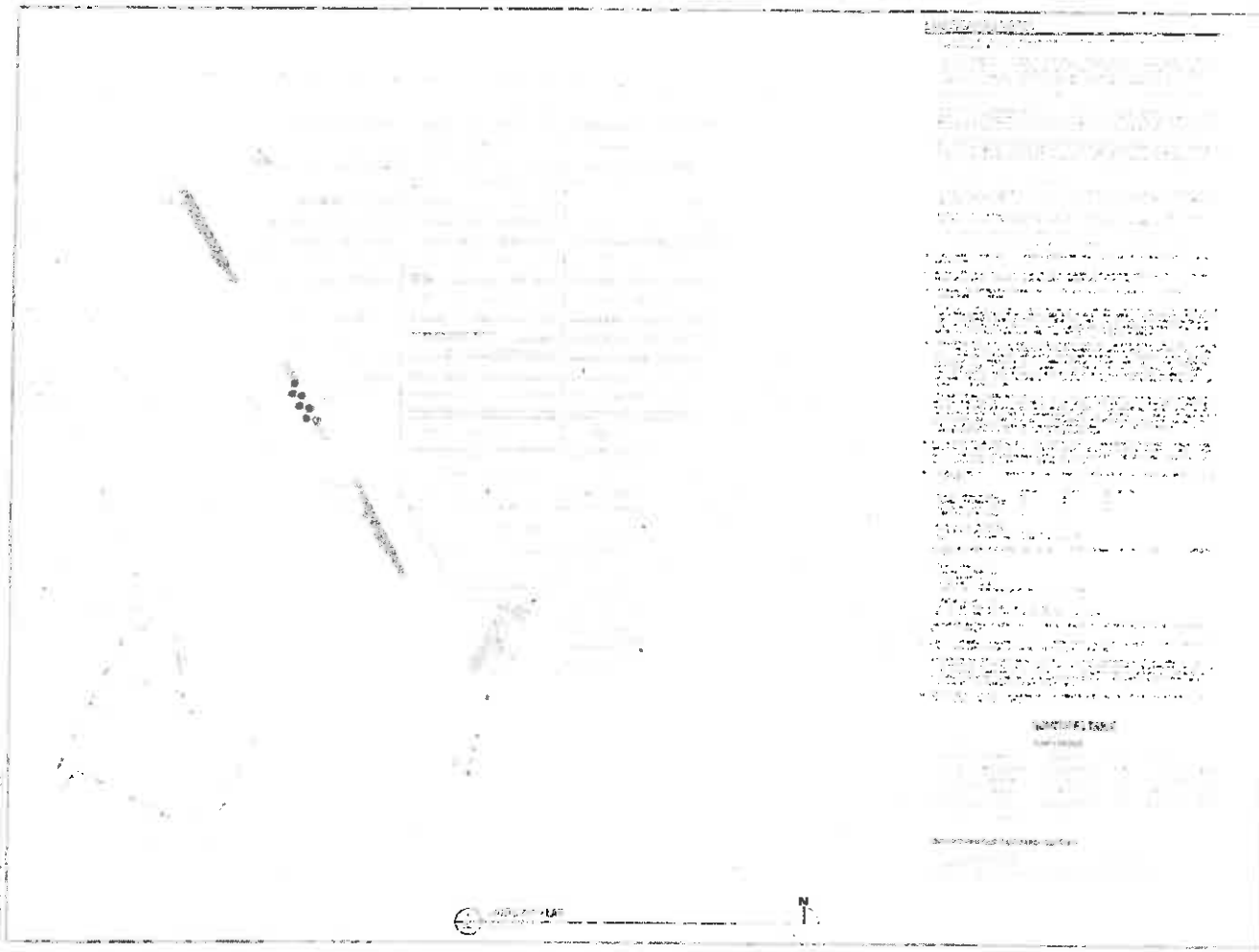
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EXTRA EQUIPMENT
 SEE PAGE 14

C501



Technical drawing text, including dimensions and specifications, mostly illegible due to low resolution.

Table with multiple rows and columns, containing technical specifications and data. The text is illegible.



NOTICE CONSTRUCTION OF THIS PROJECT IS UNDERWAY. ALL ACCESS TO THE SITE IS LIMITED TO THE NECESSARY PERSONNEL AND EQUIPMENT. ALL OTHERS ARE PROHIBITED FROM ENTERING THE SITE. ANY VIOLATION OF THESE TERMS WILL BE PENALIZED BY THE CONTRACTOR.	WARNING  HIGH VOLTAGE KEEP OUT	WARNING THESE FACILITIES ARE MONITORED BY VIDEO & ELECTRONIC SURVEILLANCE EQUIPMENT.
NOTICE CONSTRUCTION OF THIS PROJECT IS UNDERWAY. ALL ACCESS TO THE SITE IS LIMITED TO THE NECESSARY PERSONNEL AND EQUIPMENT. ALL OTHERS ARE PROHIBITED FROM ENTERING THE SITE. ANY VIOLATION OF THESE TERMS WILL BE PENALIZED BY THE CONTRACTOR.	WARNING CONSTRUCTION OF THIS PROJECT IS UNDERWAY. ALL ACCESS TO THE SITE IS LIMITED TO THE NECESSARY PERSONNEL AND EQUIPMENT. ALL OTHERS ARE PROHIBITED FROM ENTERING THE SITE. ANY VIOLATION OF THESE TERMS WILL BE PENALIZED BY THE CONTRACTOR.	WARNING CONSTRUCTION OF THIS PROJECT IS UNDERWAY. ALL ACCESS TO THE SITE IS LIMITED TO THE NECESSARY PERSONNEL AND EQUIPMENT. ALL OTHERS ARE PROHIBITED FROM ENTERING THE SITE. ANY VIOLATION OF THESE TERMS WILL BE PENALIZED BY THE CONTRACTOR.

NY: CDS ONEIDA 2, LLC



CONSTRUCTION DETAILS

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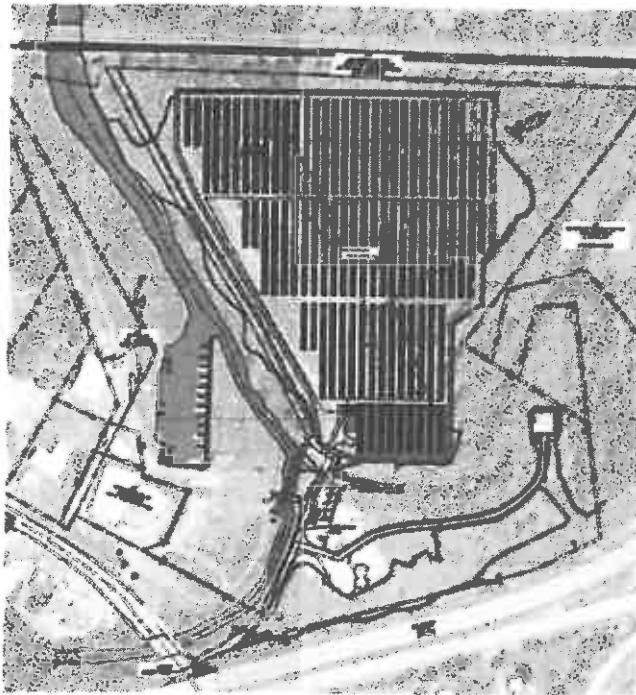
C703



BW SOLAR

Oneida 2 5 MW AC Community Solar Project Decommissioning Plan

6821 Martin Road, Rome, NY



Prepared by Mike Brugge, NY CDG Oneida 2, LLC
Reviewed by James Taravella, P.E. & Chris Centola, R.L.A., Labella Associates
Created on July 15, 2021

Introduction

NY CDG Oneida 2, LLC proposes to build a ground mounted photovoltaic (PV) solar facility located at 6821 Martin Road in the City of Rome, tax parcel 259.001-1-002. The facility will be connected to the local electrical grid and have a capacity of approximately five (5) megawatts (MW) alternating current (AC).

The site is proposed to occupy approximately 18 acres of a 41 acre parcel. The site plan has been designed to avoid impacting the Mohawk River and Federal wetland areas. The installation will be 5MW AC based on approximately 145 free standing, tracking, solar tables consisting of roughly 11,890 modules. There will be electrical collection systems including cabling and protection devices to enable the collection of power to a main inverter/transformer station near one of the sites entrances.

This Decommission Plan provides a description of decommissioning and restoration of a 5 MW Community Solar project in Rome, NY. Start of Construction is planned for 2022 or 2023. The project will consist of perimeter fencing, solar arrays, single axis tracking racking structures and foundations, inverters, electrical collection system and gravel access roads.

Proposed facilities are predominantly on undeveloped land. The project area will have minimal to no ground disturbance. The terrain is relatively flat and the project avoids wetlands, waterways and drainage ditches to the extent practicable.

This plan assumes that the solar facility will have a maturity date of thirty five (35) years. This plan will be reviewed and revised at the start of construction to confirm that the value is still adequate and be revised if any discrepancies arise. The plan will need to be completely redone should there be an opportunity to extend the life or repower.

The decommissioning plan must be in the form of a recorded instrument legally binding on the owner of the large-scale solar energy system and to the real property on which it is installed

Any subsequent transfers of the solar facility and/or the real property from the date of the site plan approval shall be conditioned on the transferee agreeing to be held responsible and liable for the decommissioning plan.

Decommissioning of the Solar Facility will include the disconnection of the Solar Facility from the electrical grid and the removal of all Solar Facility components including:

- Photovoltaic (PV) modules, panel racking and supports;
- Inverter units, transformers, and other electrical equipment;
- Access roads, wiring cables, perimeter fence; and,
- Concrete foundations.

This Decommissioning Plan is based on current best management practices and procedures. The Plan may be subject to revision based on new standards and emergent best management practices at the time of decommissioning. Permits will be obtained as required and notification will be given to stakeholders prior to decommissioning.

Decommissioning of the Solar Facility

Decommissioning will occur as a result of any of the following conditions:

1. That NY CDG Oneida 2, LLC or any entity that may own or operate the facility in the future decides to retire the Solar Facility;
2. The system is not completed and functioning within 18 months from the issuance of a building permit;
3. The system generates less than 50% of its approved capacity for a period of one (1) year;
4. The system is damaged and will not be repaired or replaced
5. The system does not produce power for 12 months
6. Any failures to meet obligations of the lease, local and utility regulations, or law.

The City of Rome Code Enforcement Officer, as well as the utility, and the land owner will be notified via certified mail if decommissioning and removal of the system is required.

As the Owner will file a Notice of Intent to the New York State Department of Agriculture and Markets ("NYS DAM"), the Owner will notify and coordinate action with NYSDAM, as well. As required with the scope of the process, the Owner may have to seek permits with the Town, the New York State Department of Environmental Conservation ("NYS DEC") for any future-day SPDES stormwater management requirements, and the United States Army Corps of Engineers ("USACE") for any concerns governing the Waters of the United States. Once notices and permits are obtained, the Owner and its contractors can move to perform the action.

It is important to realize that the probability of early an early decommissioning event that would lead to abandonment or long-term interruption is extremely low during the first 20 years of the Project life due to:

- Sophisticated financing and tax equity partners
- Equipment warranties
- Insurance and business interruption insurance for unforeseen failures
- Operations and maintenance planning
- Creation of a major equipment reserve fund for equipment failures
- Replacement costs declining steadily.

Based on this, NY CDG Oneida 2, LLC slowly builds a cash reserve from the revenue starting in year 15 although as stated above, this will be re-evaluated regularly.

The activities involved in decommissioning the projects include disassembly and removal of all infrastructure (solar modules, racking, tracking system, inverters, transformers, foundations, etc.), and the remediation of soil and vegetation shall be conducted to return the site to a useful and nonhazardous condition and shall include but not be limited to the following:

- Removal of above ground and belowground equipment, structures and foundations.
- Restoration of the surface grade and soil after removal of equipment.
- Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
- A time frame for the completion of the site restoration work.
- A cost estimate detailing the projected cost prepared by a professional engineer or contractor; and cost estimates shall take into account inflation.

Decommissioning is expected to take 6-9 months and not occur during winter months.

The anticipated sequence of decommissioning and removal is described below:

- Reinforce access roads, if needed, and prepare site for component removal
- Install temporary fencing if required to ensure safety
- De-energize solar arrays, open all disconnections and have a qualified electrician disconnection all terminated cables.
- Remove panels and dismantle racking for recovery / disposal
- Remove structural foundations a minimum of four feet (48 inches) below the surface.
- Remove inverters and transformers
- Remove electrical cables and conduits
- Remove access and internal roads
- De-compact subsoils (if required), restore and revegetate disturbed land to pre-construction conditions to the extent practicable

Decommissioning Costs

The Owner will provide documentation of the bond for \$159,000 upon application for building and electrical permits within the Town. The Owner proposes to post the security at the time of application for a building permit. After every year of operation, NY CDG Oneida 2, LLC, or the future owner-operator will increase the bond amount 3.0% of the previous balance to keep up with inflation and expected decommissioning costs.

The decommissioning bond/surety shall be in place for the full life of the project (35 years) to cover the decommissioning period to allow the site to be fully stabilized. The bond shall be removed once the decommissioning is complete. In the event the decommissioning is not completed within 12 months of the end of the land lease (conditions stated above), the town may draw on the bond to complete the decommissioning work.

The decommissioning cost is based on best available information but is subject to change over the lifetime of the facility depending on future economic and industry conditions. Economic conditions such as inflation could increase costs; however, improvements in industry practices such as automation could decrease costs. The estimate provided applies only to current economic and industry conditions and does not consider future valuations. The Owner may choose to have a licensed professional engineer reevaluate decommissioning costs by before each renewal period.

This cost estimate does not include the salvage value of the decommissioned equipment. All material which is not salvageable will be recycled with an industry-recognized leader. While PV recycling technology is a relatively new technology, it has greatly progressed in recent years.

Summary of Decommissioning Costs

Tasks	Total Cost
Removal of PV string wiring	\$ 5,000.00
Removal of Modules	\$ 16,000.00
Dismantle and remove racking	\$ 40,000.00
Removal of Electrical Equipment	\$ 8,000.00
Removal of Concrete	\$ 2,500.00
Removal of Racking Foundations	\$ 40,000.00
Safely Abandoning/ removing Cable	\$ 5,000.00
Removal of Fencing	\$ 10,000.00
Site Restoration	\$ 5,500.00
Shipping Costs	\$ 5,500.00
15% Administration/ Contingency	\$ 20,625.00
TOTAL	\$ 158,125.00

Bond Amounts

YEAR	BOND AMOUNT
1	\$ 158,125.00
2	\$ 162,868.75
3	\$ 167,754.82
4	\$ 172,787.45
5	\$ 177,971.08
6	\$ 183,310.21
7	\$ 188,809.52
8	\$ 194,473.80
9	\$ 200,308.02
10	\$ 206,317.26
11	\$ 212,506.78
12	\$ 218,881.99
13	\$ 225,448.44
14	\$ 232,211.89
15	\$ 239,178.25
16	\$ 246,353.60
17	\$ 253,744.21
18	\$ 261,356.59
19	\$ 269,197.23
20	277,273.14
21	\$ 285,591.39
22	\$ 294,159.08
23	\$ 302,983.85
24	\$ 312,073.37
25	\$ 321,435.57
26	\$ 331,078.64
27	\$ 341,010.99
28	\$ 351,241.32
29	\$ 361,778.56
30	\$ 372,631.92
31	\$ 383,810.88
32	\$ 395,325.20
33	\$ 407,184.96
34	\$ 419,400.51
35	\$ 431,982.52

To: BW Solar
 Attn.: Dan Huntington, Senior Project Developer

Transmitted via email to and Daniel.Huntington@bwsolar.com

BW Solar, Oneida County IDA and Mohawk Valley EDGE,

We are pleased to share this indication of interest to acquire the NY CDG Oneida 2 LLC solar projects. As confirmation, Catalyze Holdings, LLC will be the purchaser of 100% of the membership interest in NY CDG Oneida 2 LLC.

Founded in 2017, Catalyze is an innovative energy-services partner and independent power producer (IPP) of renewable energy on commercial properties. In September of 2019, Catalyze secured a significant capital commitment from EnCap Investments L.P. ("EnCap") and Yorktown Partners LLC ("Yorktown"), supporting Catalyze's ambitious goal of transforming commercial real estate into smart energy infrastructure.

Our team has extensive experience in developing and delivering turnkey renewable energy solutions that integrate market supply knowledge with distributed energy assets, especially within the New York Market. As you consider the Pilot ownership transfer, you should be confident in the following factors that differentiate Catalyze::

- | | |
|---|---|
| <ul style="list-style-type: none"> • Leadership • Market Knowledge • Industry Vision • Solution Experience • Risk Management | <ul style="list-style-type: none"> Scalability Financial Stability Partner & Portfolio Emphasis Support Commitment Flexibility and Rapid Response Capability |
|---|---|

It is important to note that we are intimately familiar with development, construction, and operation of solar assets in the Northeast, with a significant active pipeline of projects in New York State. Please see the attached list of active NYS projects as well as our references with development partners.

Best,



Jared Haines, VP of Business & Project Development



Exhibit A – 2022 New York Projects

<i>2022 Catalyze Projects (NY)</i>				
<i>Project Name</i>	<i>Status</i>	<i>System Size (kWdc)</i>	<i>State</i>	<i>Utility</i>
<i>NY SPENCER</i>	Pre-NTP Applications & Permits	5461.56	NY	New York State Elec & Gas Corp
<i>NY SPRINGFIELD CENTER</i>	Pre-NTP Applications & Permits	7497.36	NY	New York State Elec & Gas Corp
<i>NY WHITE PLAINS</i>	Pre-NTP Applications & Permits	5000	NY	Consolidated Edison Co-NY Inc
<i>NY FLUSHING</i>	Pre-NTP Applications & Permits	288.75	NY	Consolidated Edison Co-NY Inc
<i>NY FLUSHING</i>	Pre-NTP Applications & Permits	161.95	NY	Consolidated Edison Co-NY Inc
<i>NY HERMON</i>	Pre-NTP Applications & Permits	2,442.42	NY	National Grid - New York
<i>NY FABIUS</i>	Pre-NTP Applications & Permits	5,840.00	NY	National Grid - New York
<i>NY NEW HARTFORD</i>	Pre-NTP Applications & Permits	4,478.76	NY	National Grid - New York
<i>NY MOHAWK</i>	Pre-NTP Applications & Permits	6,520.00	NY	National Grid - New York
<i>NY TARRYTOWN</i>	Pre-NTP Applications & Permits	5,000.00	NY	Consolidated Edison Co-NY Inc
<i>NY ALTONA 1</i>	Pre-NTP Applications & Permits	7,500.00	NY	New York State Elec & Gas Corp
<i>NY ALTONA 2</i>	Pre-NTP Applications & Permits	7,500.00	NY	New York State Elec & Gas Corp
<i>NY PORT CHESTER</i>	Pre-NTP Applications & Permits	4,000.00	NY	Consolidated Edison Co-NY Inc
<i>NY PURCHASE</i>	Pre-NTP Applications & Permits	5,000.00	NY	Consolidated Edison Co-NY Inc
<i>NY FRANKFORT</i>	Final Design & Engineering	5,335.20	NY	National Grid - New York
<i>NY CHENANGO FORKS</i>	Final Design & Engineering	6,500.00	NY	New York State Elec & Gas Corp
<i>NY BRONX</i>	Final Design & Engineering	4,288.00	NY	Consolidated Edison Co-NY Inc
<i>NY BREESPORT</i>	Final Design & Engineering	5,237.65	NY	New York State Elec & Gas Corp
<i>NY SPENCER</i>	Final Design & Engineering	7,440.12	NY	New York State Elec & Gas Corp
<i>NY BEAVER DAMS</i>	Final Design & Engineering	7,450.00	NY	New York State Elec & Gas Corp
<i>NY FLUSHING</i>	Final Design & Engineering	213.70	NY	Consolidated Edison Co-NY Inc
<i>NY AFTON</i>	Final Design & Engineering	5,896.00	NY	New York State Elec & Gas Corp
<i>NY SHERMAN 2</i>	Pre-Construction	6,912.00	NY	National Grid - New York
<i>NY SHERMAN 1</i>	Pre-Construction	6,428.00	NY	National Grid - New York
<i>NY POTSDAM</i>	Pre-Construction	6,388.20	NY	National Grid - New York
<i>NY GRAND ISLAND</i>	Pre-Construction	5,700.24	NY	National Grid - New York
<i>NY FREDONIA</i>	Installation	6,240.00	NY	National Grid - New York
<i>NY LANCASTER 1</i>	Installation	6,631.70	NY	New York State Elec & Gas Corp
<i>NY LANCASTER 2</i>	Installation	6,005.25	NY	New York State Elec & Gas Corp
<i>NY SELKIRK</i>	Installation	6,809.40	NY	National Grid - New York
<i>NY GENESEO</i>	Installation	6,760.26	NY	National Grid - New York
<i>NY AMHERST</i>	Operation	6,378.75	NY	National Grid - New York
<i>NY HARRISON</i>	Operations	221.2	NY	Consolidated Edison Co-NY Inc
<i>NY KINGSTON</i>	Operations	950	NY	Central Hudson Gas & Elec Corp
<i>NY STATEN ISLAND</i>	Operations	493	NY	Consolidated Edison Co-NY Inc
2022 MW	Total	174,969.47		
2022 MW	In Installation/Operations	40,489.56		

Exhibit C – Development Partner References

US Light Energy
 Mark Richardson, CEO
 (518) 965-4148
mrichardson@uslightenergy.com

USLE transacted with Catalyze on 5 Upstate NY projects pre-NTP, which Catalyze is currently co-developing the projects through permitting.

OurGeneration
 Elie Schecter, Managing Member
 (914) 429,5803
eschecter@ourgeneration.dev

OurGeneration transacted with Catalyze on (2) Upstate NY projects pre-NTP, which have been co-developed and are currently in construction, as well (9) additional Upstate NY projects, which we are mobilizing to construct.

Solar Liberty
 Adam Rizzo, Founder
 (866)807-3639 ext. 101
arizzo@solarliberty.com

Solar Liberty transacted with Catalyze on (3) Upstate NY projects at NTP which have mobilized for construction, and an additional (4) Upstate NY projects are pending transaction



OPTION TO LEASE AGREEMENT

By and Between

Teresa Campanaro

("Owner")

and

**BW Solar Holding Inc.,
a Delaware corporation**

("Tenant")

OPTION TO LEASE AGREEMENT

THIS OPTION TO LEASE AGREEMENT (this “**Agreement**”), by and between Teresa Campanaro (“**Owner**”), and BW Solar Holding Inc., a Delaware corporation (“**Tenant**”), is made and entered into as of the date that the later of the Owner or Tenant executes this Agreement (“**Effective Date**”).

RECITALS

A. Owner owns the real property situated in Oneida County, New York (the “**County**”) and consisting of approximately 42.33 acres of land in the aggregate, as more particularly described in Exhibit A attached hereto and incorporated herein (the “**Land**”).

B. Tenant and its Affiliates (as hereafter defined) are engaged in the business of designing, developing, marketing, constructing, installing and operating photovoltaic solar electric and energy storage facilities (the “**Intended Use**”).

C. Subject to the terms and conditions of this Agreement, Tenant desires to obtain an option to lease that portion of the Land as more particularly described on Exhibit B attached hereto and incorporated herein (including all surface rights to such land), together with any and all rights in or to any easements, appurtenances, or benefiting hereditaments, including, without limitation, all right, title and interest of Owner with respect to water, water allocations, riparian rights, caliche, and gravel relating thereto (collectively, the “**Property**”), for the initial purpose of the development, construction and operation of solar-powered electrical generating and energy storage facilities on the Property and, at Tenant’s election, on other lands in the vicinity of the Property (the “**Project**”).

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, Owner and Tenant agree as follows:

1. **Grant of Option.** Owner hereby grants to Tenant the exclusive right and option (“**Option**”) to lease the Property for the Intended Use from Owner pursuant to the terms and conditions of this Agreement. If Tenant exercises the Option with respect to the Property in accordance with Section 4, the leasing of the Property shall be pursuant to the terms and provisions of the Solar Facility Ground Lease (the “**Lease Agreement**”) in the form attached hereto as Exhibit C and incorporated herein by this reference.
2. **Option Term.** The initial term of the Option (the “**Initial Option Term**”) shall commence on the Effective Date and, unless sooner terminated or extended pursuant to this Agreement, shall end at 11:59 p.m. on the date that is three (3) years after the Effective Date (the “**Initial Option Term Expiration Date**”). In addition to the Initial Option Term, Tenant shall have the right (the “**Option Extension**”), in its sole discretion, at any time prior to the termination of the Initial Option Term, to extend the

Initial Option Term for an additional two (2) extension periods of one (1) year each after the Initial Option Term Expiration Date (each, to the extent exercised by Tenant, an “Option Extension Term” and, together with the Initial Option Term, the “Option Term”) by delivering written notice thereof to Owner (such written notice being the “Option Extension Notice”). Tenant shall have the right, in its sole discretion, to terminate this Agreement at any time during the Option Term by giving written notice thereof to Owner and this Agreement shall terminate on the date specified in Tenant’s written notice. In the event of any such termination, absent a default by Owner, Owner shall retain all the payments tendered by Tenant pursuant to this Agreement prior to the date of termination and Tenant shall have no further obligations under this Agreement, except as otherwise expressly set forth herein.

3. Option Payments.

3.1. **Option Payment Amount.** In consideration for the grant of the Option and Owner’s commitments herein, Tenant shall pay Owner an option payment in the amount of [REDACTED] in year one of the option term, [REDACTED] in year two of the option term and [REDACTED] in year three during the Initial Option Term (each an “Option Payment” and collectively, the “Option Payments”). The first Option Payment shall be payable within thirty (30) days after the Effective Date and then on an annual basis thereafter until the end of the Initial Option Term.

3.2. **Option Extension Payment.** In the event Tenant exercises an Option Extension in accordance with Section 4 of this Agreement, Tenant shall pay to Owner [REDACTED] per exercised Option Extension (the “Option Extension Payment”), within thirty (30) days after delivering the Option Extension Notice, which amount Tenant and Owner agree is good, valuable and sufficient consideration for the Option Extension.

3.3. **Option Payment Non-Refundable.** The Option Payment shall be the consideration for the grant of the Option and Owner’s commitments herein and, except in the event of an Owner default or as expressly provided otherwise herein, shall be non-refundable.

4. Exercise of Option.

4.1. **Option Ancillary Agreements.** Concurrently with the execution of this Agreement, Owner shall deliver to Tenant one original duly completed and executed counterpart of each of the following documents:

- a. Appendix J (New York State Site Control Certification Form), a copy of which will be provided by Tenant; and
- b. Form TP-584-NYC issued by the New York State Department of Taxation and Finance, a copy of which will be provided by Tenant,

and three (3) original counterparts of the each of the following (collectively, the “Option Ancillary Agreements”):

- c. The Memorandum of Option to Lease, in substantially the form attached hereto as Exhibit D (the “Memorandum of Option”), duly executed and acknowledged by Owner;
- d. The Lease Agreement, in substantially the form attached hereto as Exhibit C, duly executed by Owner; and,
- e. The Memorandum of Solar Facility Ground Lease (the “Memorandum of Lease”, and together with the Lease Agreement, the “Lease Documents”), in substantially the form attached to the Lease Agreement as Exhibit C thereto, duly executed and acknowledged by Owner.

During the Option Term, Tenant shall hold Owner’s original counterparts of each of the Lease Documents in trust. At the expiration of the Option Term or earlier termination of this Agreement, if the Tenant elects not to exercise the Option, Tenant may, at Tenant’s election, either destroy, and within fifteen (15) business days after Owner’s written request therefore, execute a written acknowledgment that the Lease Documents are null and void and no longer in effect, or return all of Owner’s original counterparts of the Lease Documents received by Tenant.

4.2. **Exercise Notice.** At any time during the Option Term, Tenant shall have the right to exercise the Option as to all or any portion of the Property by attaching Owner’s original counterparts to each Lease Document and delivering to Owner an original fully-completed, fully-executed copy of each of the Lease Documents. Such Lease Documents shall become immediately effective and binding upon Owner and Tenant with respect to the Property upon delivery to Owner, or upon such other date as Tenant may designate and reference in each of the Lease Documents (the date so chosen by Tenant, hereinafter the “Exercise Date”); provided, however, that in no event shall the Exercise Date be any date after the expiration of the Option Term. Owner acknowledges and agrees that in conjunction with the exercise of the Option, Tenant shall populate the Lease Documents, and may make such changes thereto, as Tenant may reasonably deem necessary or appropriate; provided, however, that any such changes do not materially increase the obligations, or materially impair the rights, of Owner under the relevant Lease Document. Moreover, the legal description of the Property may be revised by Tenant in accordance with Section 5.8 or as otherwise expressly permitted by the Lease Agreement. Notwithstanding anything herein to the contrary, Tenant’s election as to whether or not to exercise the Option shall be in Tenant’s sole and absolute discretion.

5. Due Diligence

5.1. **Due Diligence and Access to the Property.** Throughout the Option Term, Tenant and Tenant's agents, employees, contractors and invitees (collectively, "Tenant's Agents") shall have reasonable access to the Property for the purposes of Tenant's due diligence investigations of the Property ("**Due Diligence Investigation**"), which may include, without limitation, the rights to (i) conduct such tests, surveys, studies and other investigations as Tenant may deem appropriate and (ii) seek such conditional use permit(s), zoning changes and other permits and entitlements as Tenant determines to be necessary in connection with the Project. To the extent reasonably possible, Tenant shall use existing roads and driveways on the Property. To assist Tenant's Due Diligence Investigation, within ten (10) days after the Effective Date, Owner shall provide Tenant all documents in Owner's possession related to the Property, including but not limited to legible copies of any unrecorded leases, liens or other agreements that encumber the Property, any title reports or title policies, environmental site assessments and any other documentation and reports that are material to evaluating the status of title and the environmental condition of the Property. At least twelve (12) hours prior to any entry onto or inspection of the Property, Tenant shall provide reasonable advance notice to Owner of its intention to enter the Property and evidence of insurance covering the activities of Tenant and Tenant's Agents on the Property. Notwithstanding the foregoing sentence, in the event of an emergency threatening life or property, as reasonably determined by Tenant, Tenant shall not be required to provide advance notice to Owner prior to taking any reasonable protective, remedial, or corrective action or entering onto the Property; provided, however, that Tenant will notify Owner of such emergency and the action taken as soon as practical. Tenant's right of entry onto the Property shall include, without limitation, the right to undertake a Phase I Environmental Site Assessment and, if recommended by Tenant's Phase I Environmental Site Assessment or otherwise determined to be prudent by Tenant in Tenant's sole and absolute discretion, a Phase II Environmental Site Assessment. Such right of entry shall also include, without limitation, the right to undertake wetland or field studies of the Land. In addition, Tenant shall have the right to conduct test pile driving at multiple locations, potholing to confirm pipeline locations in multiple locations (if necessary), and excavation of test pits to determine soil type/geotechnical conditions. Tenant's right of entry shall also include a nonexclusive irrevocable license to enter upon the Property for the purpose of construction of one or more meteorological stations, each of which may occupy an approximately ten (10) foot by ten (10) foot portion of the Property. The meteorological stations will be in locations reasonably approved by Owner and surrounded by a fence. Tenant shall also have an exclusive license and right of possession to operate and maintain the meteorological stations on the Property, and the meteorological stations shall be and remain the personal property of the Tenant, and not a fixture, and may be removed by Tenant for any reason. Tenant shall remove the meteorological stations if Tenant determines not to exercise or extend its Option and, at that time, the right of entry and license will terminate. Tenant shall restore the Property to the condition which existed prior to Tenant's entry thereon and investigation

thereof to the extent the condition of the Property was affected by or as a result of the actions of Tenant or Tenant's Agents. Tenant shall keep the Property free and clear of all liens and claims of liens for labor, material, services, supplies and equipment performed on or furnished to Tenant in connection with Tenant's Due Diligence Investigation. Tenant shall not unreasonably clutter the Property or Land and shall collect and dispose of any and all of Tenant's or its contractor's or subcontractor's refuse and trash. Throughout the Option Term, and prior to entry on the Property, Tenant shall obtain and maintain, or shall cause its contractors and subcontractors to obtain and maintain, insurance coverage, in such commercially reasonable amounts. Upon Owner's request, Tenant shall provide certificates of insurance evidencing Tenant's insurance coverage.

5.2. **Taxes.** Tenant shall pay, when due, all personal property taxes and assessments levied, if any, against the Property as a result of Tenant bringing said personal property on the Property in connection with Tenant's Due Diligence Investigation.

5.3. **Indemnities; Limitation of Liability.** Except to the extent caused by the negligence, fraud or willful misconduct of Owner or its agents or employees, Tenant agrees to indemnify Owner against any third-party claims, losses, liabilities, injuries, or damages to real or tangible property or persons that arise out of the Due Diligence Investigation activities of Tenant or Tenant's Agents on the Property during the Option Term, up to, and not in excess of the lesser of: (i) Owner's actual, out-of-pocket costs; or (ii) Tenant's commercial general liability insurance coverage. **NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT, WHETHER BASED IN CONTRACT, INDEMNITY, WARRANTY, TORT, STRICT LIABILITY OR OTHERWISE, SHALL TENANT BE LIABLE TO OWNER FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, INDIRECT OR PUNITIVE THAT ARISE OUT OF, RELATE TO, OR ARE OTHERWISE ATTRIBUTABLE TO THIS AGREEMENT, OR TENANT'S DEFAULT HEREUNDER, AND ALL SUCH DAMAGES ARE HEREBY EXPRESSLY WAIVED BY OWNER.**

5.4. **Condition of Title**

5.4.1. **Preliminary Title Report.** Tenant may, at any time during the Option Term, obtain a preliminary title report or title commitment covering the Property ("**Preliminary Title Report**") from a title company selected by Tenant in its sole discretion ("**Title Company**"). Except as otherwise expressly permitted herein, Owner hereby acknowledges and agrees that it shall not during the Option Term encumber the Property or any portion thereof, or Landlord's interest therein, with any liens, mortgages, security interests, charges, claims, leases, survey exceptions, options, rights of first refusal, rights of first offer, easements, restrictions, rights-of-way, or any other matters of record or encumbrances of any nature (collectively, "**Encumbrances**") without the prior written consent of Tenant.

Notwithstanding anything contained herein, in the event any Encumbrances are created or otherwise encumber or affect the Property after the date of the Preliminary Title Report, Owner shall notify Tenant within five (5) days of discovery of such Encumbrances and Tenant shall have the right to extend the Option Term in its discretion for up to sixty (60) days after the discovery of such Encumbrances and shall deliver to Owner a written notice describing any objections thereto. At its expense, Owner shall, and does hereby agree to, remove at or before the Exercise Date (but as early as necessary to prevent any disruption of Tenant's rights under this Agreement) any monetary liens (or, with respect to any mortgage or deed of trust only, if any, to provide a subordination or non-disturbance agreement from the beneficiary thereunder for the benefit of Tenant, in form and substance satisfactory to Tenant in its sole discretion), mechanic's and materialmen liens, unpaid or delinquent taxes or assessments, judgment liens, or any other consensual or non-consensual lien affecting any portion of the Property that Owner has created or permitted to exist, other than non-delinquent taxes or assessments (collectively, "**Monetary Liens**"). With the exception of any Monetary Liens and Other Leases (as defined below), any title exception(s) listed on Schedule B of the Preliminary Title Report or Encumbrances not expressly disapproved in writing by Tenant (so long as Tenant is notified of such Encumbrances in accordance with this Section) prior to the Exercise Date, shall constitute "**Permitted Encumbrances**" with respect to the Property for purposes of the Lease Agreement. Owner shall use reasonable efforts to cure any title matters it agrees to remove after written objection to the same by Tenant.

5.4.2. **Tenant's Title Policy.** Owner acknowledges that Tenant may acquire at or after the Effective Date, at Tenant's sole cost, a policy of title insurance insuring Tenant's interests under this Agreement, if such policy is available. If Tenant exercises the Option, Tenant may obtain a title insurance policy insuring its leasehold interest from the Title Company, at Tenant's sole cost. In either event, Owner shall reasonably cooperate and execute such forms and affidavits as may be reasonably required by the Title Company to facilitate issuance of such policies.

5.5. **Monetary Liens and Encumbrances.** In the event Owner fails to remove any Monetary Liens (or, with respect to any mortgage or deed of trust only, to provide a subordination or non-disturbance agreement from the beneficiary thereunder for the benefit of Tenant, in form and substance satisfactory to Tenant in its sole discretion) and Owner defaults on its obligations to the beneficiary or other holder of such Monetary Lien, then Tenant shall be entitled (but not obligated), in addition to all other remedies available to Tenant hereunder or otherwise, to fulfill Owner's obligations to such holder or beneficiary and may offset the cost of doing so against future payments due Owner under this Agreement.

5.6. **Other Leases.** If there are any leases (including, without limitation, any farm leases or oil, gas or mineral leases) that grant a lessee any rights with respect to the surface of the Property that do not expire by their terms no later than thirty (30) days after the Exercise Date (the “**Third-Party Lease Termination Deadline**,” and any such leases, collectively, the “**Other Leases**”), Owner shall, prior to the Third-Party Lease Termination Deadline, amend any such Other Leases pursuant to amendments approved by Tenant to (i) provide that the Other Leases shall expire by the Third-Party Lease Termination Deadline; (ii) provide that the Other Leases shall be terminable from and after such date by the lessor (without any payment obligation) upon thirty (30) days’ written notice from the lessor to the lessee thereunder; or (iii) eliminate any surface rights to the Property by the Third-Party Lease Termination Deadline (collectively, the “**Lease Conditions**”). During the Option Term, Owner shall not enter into any new leases or amend any Other Leases in a manner which grants rights to the surface of the Property beyond the Third-Party Lease Termination Deadline or which are not so terminable upon thirty (30) days’ written notice from the lessor to the lessee thereunder. Tenant shall have the right in connection with the exercise of the Option to require Owner to give the requisite notice of termination for any Other Leases that extend beyond the Third-Party Lease Termination Deadline and, in such event, Owner hereby acknowledges and agrees to provide to any such third-party under any Third-Party Lease such notice of termination and exercise Owner’s rights of termination and enforcement thereunder. Moreover, Owner hereby agrees not to enter into any new leases that violate the Lease Conditions, except with the prior written consent of Tenant, which consent may be withheld in Tenant’s sole discretion.

5.7. **Mineral Rights.** During the Option Term and, if the Option is exercised, the Lease Term (as defined in the Lease Agreement), Owner hereby waives (collectively, the “**Surface Waiver**”) any rights to the use of the surface of the Property to explore, drill, access, extract, mine, exploit, or otherwise make use of any rights to the oil, gas, or other minerals (“**Minerals**”) in, on, or under the Property, to the extent such rights are held by Owner, its lessees or assignees, and Owner and its lessees and assignees shall exercise any rights to such Minerals solely via directional drilling or other similar means which shall not penetrate or otherwise disturb the surface of the Property within Five Hundred Feet (500) feet of the Property. If any third party holds any rights to Minerals in, on, or under the Property, Owner shall, on or before the Exercise Date, obtain a Surface Waiver from such third party for the benefit of Tenant in form and content acceptable to Tenant and the Title Company. Any directional drilling or other subsurface Mineral activities of Owner and/or its lessees or assignees or any other party shall take place at least Five Hundred Feet (500) feet from the boundaries of the Property, at a depth of not less than five hundred (500) feet below the surface of the Property, and shall not adversely affect the lateral or subjacent support of the Project or interfere with Tenant’s operations or rights under this Agreement in any way.

5.8. Acreage and Legal Description Update at Closing. Owner and Tenant hereby acknowledge and agree that during the Option Term, Tenant shall have the right to modify the legal description and total acreage of the Property from what is set forth in Exhibit B; provided, however, that in no event shall the legal description include property not owned by Owner. Notwithstanding the foregoing sentence, the Parties intend to be fully and legally bound by this Agreement. The Parties further agree that the Rent (as defined in the Lease Agreement) payable by the Tenant to Owner pursuant to, and otherwise in accordance with, the Lease Agreement (i) during the Construction Term, shall be \$800.00 USD per acre of the Property, (ii) during the Operating Term, shall be \$1,250.00 USD per acre of the Property, and (iii) during the Decommissioning Term, shall be \$800.00 USD per acre of the Property; provided, however, that in all cases, the Rent shall be adjusted any time the acreage of the Property is modified due to a change in the legal description of the Property permitted under this Agreement or the Lease Agreement.

6. Representations and Warranties.

6.1. Owner's Representations and Warranties. As of each of the Effective Date and the Exercise Date, Owner hereby makes the following representations and warranties to Tenant:

6.1.1. Title. Owner is the sole fee simple owner of the Property, including, without limitation, all water and mineral rights pertaining to the Land. Except to the extent true and complete copies have been provided to Tenant, to the best of Owner's knowledge, there are no unrecorded leases, liens, or other agreements in effect that are binding upon the Property and Owner has not granted or entered into any options, rights of first refusal, rights of first offer, offers to sell or agreements to purchase all or part of the Property other than with Tenant pursuant to this Agreement. Except as disclosed in the Preliminary Title Report, to the best of Owner's knowledge, no parties are either in possession of any part of the Property or have any easement, license, lease or other right or interest relating to the use or possession of any part of the Property. Notwithstanding anything herein to the contrary, Owner hereby represents and warrants that, as of the Effective Date, there are no mortgages or deeds of trust encumbering any portion of the Land.

6.1.2. Authority. Owner has the unrestricted right and authority to enter into, execute and perform this Agreement and to grant to Tenant the rights granted under this Agreement. Each person signing this Agreement on behalf of Owner has the capacity and is authorized to do so and all persons (including spouses) having any ownership or other right, title or interest in the Property are signing this Agreement. When signed by Owner, this Agreement constitutes a binding, valid, and enforceable agreement in accordance with its terms.

- 6.1.3. **No Violations or Defaults.** Neither the execution and delivery of this Agreement by Owner nor the consummation by Owner of the transactions contemplated in this Agreement, nor compliance by Owner with the terms and provisions of this Agreement will: (i) violate any provision of the instruments or agreements by which Owner is formed and/or governed or (ii) violate any of the terms or provisions of any instrument or obligation encumbering the Property and/or by which Owner is bound.
- 6.1.4. **Consents and Approvals.** No consents or approvals of, or filings or registrations with any court, administrative agency or commission or other governmental authority or instrumentality or with any other third party by Owner are necessary in connection with the execution, delivery and performance of this Agreement by Owner.
- 6.1.5. **Brokers.** Neither Owner nor any person associated with Owner has employed any broker or finder or incurred any liability for any brokers' fees, commissions or finders' fees as a result of the execution of this Agreement or the transactions contemplated hereby.
- 6.1.6. **Compliance with Laws; Condemnation.** Owner has not received any notice of and, to Owner's best knowledge, there are no violations of any statute, ordinance, regulation, or administrative or judicial order existing with respect to the Property. Owner has not received any notice of, and there are no pending, condemnation actions, nor does Owner have any knowledge of the same or of any threat of the same.
- 6.1.7. **Hazardous Substances.** Owner has not stored, released, or generated on the Property any Hazardous Substances (as defined below), except to the extent permitted by and in compliance with any health, safety, or other laws, rules, regulations, or ordinances that govern or are applicable to any Hazardous Substances (collectively, "**Environmental Laws**"). To the best of Owner's knowledge, the Property is in compliance with all Environmental Laws governing the use, handling, or storage of Hazardous Substances. The term "**Hazardous Substances**" as used in this Agreement means any substance or material that is regulated by, or is defined as, a toxic, dangerous or hazardous substance or pollutant under any Environmental Laws. Owner shall indemnify and hold Tenant harmless from any cost, loss or liability incurred with respect to any Hazardous Substances being found on, in or under the Land which results from any occurrence prior to the commencement of the Lease Agreement not caused by Tenant or by Tenant's agents, employees or contractors.
- 6.1.8. **No Litigation.** There is no litigation pending nor, to the best of Owner's knowledge, threatened respecting the ownership, possession, condition, use or operation of any portion of the Property.

- 6.1.9. **Tax Exemptions.** No portion of the Property has benefited from or is subject to any special tax valuation, tax deferral or tax exemption, or is enrolled in or classified under any conservation reserve, tax deferral or other similar programs.
- 6.1.10. **Cell Tower.** Owner has leased a portion of the Land to a cell tower company pursuant to the terms of a lease agreement (“**Cell Tower Lease**”), a copy of which has not been provided to the Tenant. At no time during either the Option Term or following the exercise of the Option by the Tenant will all or any portion of the Property be encumbered by either the Cell Tower Lease or any easements granted thereby.
- 6.1.11. **Changes.** During the Option Term, Owner shall notify Tenant in writing of any changes affecting any of the foregoing representations and warranties no later than five (5) days after the date of such change; provided, however, that any such notification shall not excuse Owner from any breach of any of the foregoing representation and warranties. The representations and warranties contained in this Section 6.1 shall survive the expiration or termination of this Agreement and/or the exercise(s) of the Option, as applicable.
- 6.2. **Tenant’s Representations and Warranties.** As of each of the Effective Date and the Exercise Date, Tenant hereby makes the following representations and warranties to Owner:
- 6.2.1. **Formation.** Tenant is a corporation duly formed, validly existing and in good standing under the laws of the State of Delaware, and is qualified to conduct business in the state in which the Property is located. Tenant has all requisite power and authority to enter into and perform this Agreement.
- 6.2.2. **Authority.** Tenant has the power and authority to enter into, deliver and perform this Agreement. The execution, delivery and performance of this Agreement by Tenant have been duly and validly approved by Tenant and any and all persons or entities whose approval is necessary to the validity hereof or thereof, and no other action on the part of Tenant is necessary to approve this Agreement and/or to consummate the transactions contemplated in this Agreement. This Agreement has been duly and validly executed and delivered by Tenant and constitutes a binding and valid agreement enforceable against Owner in accordance with its terms.
- 6.2.3. **Permits and Laws.** Tenant and its designees shall at all times comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, judgments and other valid orders of any governmental authority applicable to Tenant’s activities pursuant to this Agreement and shall obtain all permits and authorizations from any governmental authority required by applicable law to conduct any activities contemplated by this Agreement.

7. Default Remedies; Attorneys' Fees.

7.1. Owner's Remedies. In the event that Tenant fails to perform its obligations under this Agreement, including but not limited to failure to make the Option Payment when due, and such failure shall continue for a period of thirty (30) days after receipt of written notice from Owner, Owner, as its sole remedy, may terminate this Agreement by providing written notice to Tenant, in which case Owner shall retain the Option Payment as Owner's liquidated damages, and not as a penalty, it being agreed that it would otherwise be difficult or impossible to determine Owner's actual damages suffered from Tenant's breach of this Agreement, but that the liquidated damages provided herein represent a reasonable, just, and fair estimate of such damages and Owner and Tenant therefore intend to provide for liquidated damages as herein specified.

7.2. Tenant's Remedies. In the event that Owner fails to perform its obligations or a representation or warranty of Owner ceases to be true under this Agreement, Tenant shall be entitled to (i) after such failure or cessation has continued for a period of thirty (30) days after Owner's receipt of written notice from Tenant, terminate this Agreement, in which event Owner shall refund to Tenant the Option Payment less One Hundred Dollars (\$100.00), which shall be consideration for the Option, and Owner shall reimburse Tenant for all costs and expense incurred by Tenant in connection with Tenant's due diligence, entitlement, and development efforts pertaining to the Property; (ii) sue Owner for specific performance of Owner's obligations under this Agreement, including with respect to any failure by Owner to perform its obligations under Section 4 of this Agreement without any prior written notice or additional cure period requirement immediately upon Owner's repudiation of the effective and binding nature of this Option Agreement or any Option Ancillary Agreement; and/or (iii) pursue any right or remedy available to Tenant at law or in equity, including, without limitation, the recovery of damages suffered or incurred by Tenant in connection with or as a result of any such matter.

7.3. Attorney's Fees. In the event of any action at law or in equity between the parties hereto to enforce or interpret this Agreement (including matters related to bankruptcy and appellate proceedings), the non-prevailing party or parties to such litigation shall pay to the prevailing party or parties all costs and expenses, including reasonable attorneys' fees, incurred therein by such prevailing party or parties and, if such prevailing party or parties shall recover judgment in any such action or proceedings, such costs, expenses and attorneys' fees may be included in and as a part of such judgment. The prevailing party or parties shall be the party who is entitled to recover his costs of suit, whether or not the suit proceeds to final judgment. If no costs of suit are awarded, the court shall determine the prevailing party or parties.

8. **Confidentiality.** Owner shall maintain in strictest confidence, for the sole benefit of Tenant and Tenant's Affiliates (as hereafter defined), the terms of this Agreement or of the Lease Agreement, and any information provided by Tenant to Owner in relation to the transaction contemplated hereby and thereby, including, without limitation, all information pertaining to the financial terms of and payments under this Agreement, Tenant's site or product design, methods of operation, methods of construction, power production or availability, and the like, whether disclosed by Tenant or discovered by Owner. Furthermore, Owner recognizes that Tenant is engaged in a competitive industry and acknowledges that divulging confidential information relative to this Agreement may cause significant damages to Tenant, and Owner hereby acknowledges, consents and agrees that, in the event of any such breach, or the threat thereof, Tenant shall be entitled, in addition to any other legal remedies and damages available, to seek temporary and permanent injunctive relief (without the necessity of posting a bond) to restrain the violation or threatened violation of these confidentiality obligations by Owner.
9. **Notices.** The address of each party hereto for all notices required or permitted to be given hereunder shall be as follows:

If to Owner:

Teresa Campanaro
208 McCaskill Street
Marshallville, GA 31057

If to Tenant:

BW Solar Holding Inc.
Attention: Tai Nguyen
2084 Maplewood Road
St. Clements, Ontario Canada
N0B 2M0

With a copy (which shall not constitute notice without delivery to the address above) to:

Colligan Law LLP
12 Fountain Plaza, Suite 600
Buffalo, New York 14202

All notices shall be in writing, and may be delivered by any of the following methods, with all delivery charges and/or postage pre-paid: personal delivery (including delivery by private courier services), reputable overnight courier service (e.g., Federal Express or UPS), or United States first class certified mail with return-receipt requested. Any notice personally delivered shall be deemed to have been validly and effectively given on the date of such delivery, unless such date shall not be a business day, in which case such delivery shall be deemed to have been validly and effectively given on the next succeeding business day. Any notice sent by reputable overnight courier or by United States first class certified mail shall be deemed to have been validly and effectively given on the date of the receipt for delivery thereof.

Owner or Tenant may change its address for purposes of this paragraph by giving written notice of such change to the other parties in the manner provided in this paragraph. Payments shall be made to Owner, at Owner's election, either (i) by wire transfer to an account designated by Owner, or (ii) by check delivered to Owner's address as set forth in this Section.

10. Owner's Cooperation and Related Covenants.

10.1. **Due Diligence and Authorization.** Throughout the Option Term, Owner shall reasonably cooperate with Tenant, in Tenant's Due Diligence Investigation and with Tenant's efforts to obtain any governmental approvals, permits or entitlements for the Property, at no cost to Owner, including, without limitation, Tenant's efforts to obtain any conditional or other use permits or entitlements and/or complete any rezoning process required by the County or any associated municipality for Tenant's contemplated use of the Property for solar energy project purposes. Without limiting Owner's obligations under any other provision of this Agreement, Owner shall cooperate with Tenant to obtain a non-disturbance agreement, relocation agreement or other title curative agreement from any person or entity with a lien, encumbrance, mortgage, easement or other problematic exception to Owner's title to the Property as requested by Tenant in order to facilitate development and financing of the Project on the Property. Owner shall also cooperate with Tenant and execute applications or other documents reasonably requested by Tenant in connection with any applications for environmental incentives, financial incentives, tax incentives and abatements, governmental approvals, permits, entitlements, and any subdivision of the Property that may be required in order for Tenant to lease the Property pursuant to the Lease Agreement and Owner hereby grants a limited power of attorney to Tenant to execute, on Owner's behalf as owner of the Property, any such application to the extent that such applications directly relate to Tenant's intended use of the Property as part of the Project, and will execute such further written confirmations of such limited power of attorney as Tenant may reasonably request from time to time. Tenant shall have no obligation to complete its incentive application or entitlement/zoning process if Tenant elects not to proceed with the Option and may abandon that process at any time without liability to Owner with respect thereto. During the Option Term, Owner shall not modify the Property in a manner that might interfere with the flow of solar energy onto the Property or the construction of a solar energy project or the Project thereon.

10.2. **Exclusivity.** Throughout the Option Term, Owner agrees and acknowledges that Tenant shall have the sole and exclusive (i) right to conduct a Due Diligence Investigation of the Property and (ii) option and right to use the Property for the Intended Use or any associated uses related to the generation, storage, or transfer of solar energy and Owner shall not grant or permit any rights or activities related to such uses to or by Owner, any third parties, or Owner's agents, employees, contractors, or other related persons or entities.

11. **Effect of Option Agreement; Interest in Real Property.** The parties intend that this Agreement is given by Owner to Tenant as an option to lease the Property as described herein. The parties intend that this Agreement creates a valid and present interest in the Property in favor of Tenant. Therefore, this Option shall be deemed an interest in and encumbrance upon the Property and shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.
12. **Entire Agreement; Amendments.** This Agreement constitutes the entire agreement between Owner and Tenant respecting its subject matter. Any prior agreement, understanding or representation respecting the Property, or any other matter referenced herein not expressly set forth in this Agreement or a subsequent writing signed by both parties, is null and void. This Agreement shall not be modified or amended, except in a writing signed by both parties.
13. **Assignment.** This Agreement shall be binding upon and shall inure to the benefit of Tenant and Owner and their respective representatives, successors and assigns. During the Option Term, Owner shall not sell, encumber or otherwise transfer any interest in all or any portion of the Property, or enter any agreement to do any of the foregoing, except with prior written notice to Tenant's, or as otherwise expressly permitted in this Agreement. Notwithstanding the immediately preceding sentence or anything to the contrary in this Agreement, during the Option Term, Owner shall not (i) grant any right, option, interest or privilege to any third party for the use or development of the Property for any purpose similar, or related to, the Intended Use, (ii) convey the Property to a third party without first having provided Tenant at least thirty (30) days prior written notice of such anticipated conveyance and the identity and contact information of such transferee, or (iii) convey the Property, or any interest therein, to any third party that is a competitor of Tenant or whose principle business is the development of, or investment in, renewable projects. Moreover, notwithstanding anything herein to the contrary, Owner hereby acknowledges and agrees that as a condition to Tenant's consent of any such transfer or conveyance by Owner, at least three (3) business days prior to the date Owner sells, transfers or otherwise conveys its fee interest in all or any portion of the Property in accordance with the immediately preceding sentence, Owner shall obtain and deliver to Tenant the transferee's original counterparts of each of the Lease Documents, which shall be held by Tenant in accordance with Section 4 of this Agreement. Tenant shall have the right, without Owner's consent, to assign the Option and its rights and obligations under this Agreement, in whole or in part and in one or more assignments, to any Affiliate (as hereinafter defined) of Tenant, to any entity acquiring the interests in or substantially all the assets of Tenant and/or to any third party involved in the development of the Property for purposes of the Project or providing financing to Tenant. Moreover, Owner acknowledges and agrees that Owner's consent will not be required for any direct or indirect assignment, pledge or transfer of any of the ownership interests in Tenant or any of its equity owners. In the event of an assignment of this Agreement by Tenant, and provided that the assignor provides Owner with written notice of

such assignment, such predecessor Tenant shall be released, as of the date of such assignment, from any liability or obligations hereunder. "Affiliate" means any person or entity which directly controls, is controlled by, or is under common control with a party hereto.

14. **Governing Law; Interpretation.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York, without regard to its choice of law rules.
15. **Jury Waiver.** EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).
16. **Forum Selection; Consent to Jurisdiction.** All disputes arising out of or in connection with this Agreement shall be solely and exclusively resolved by a court of competent jurisdiction in the State of New York. The parties hereby consent to the jurisdiction of the courts of the State of New York and the United States District Courts of Albany and waive any objections or rights as to *forum nonconveniens*, lack of personal jurisdiction or similar grounds with respect to any dispute relating to this Agreement.
17. **Computation of Time.** The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the Effective Date), and including the last day, unless the last day is a holiday or Saturday or Sunday in Canada or the County, in which case the time shall be extended to the next business day. Time is of the essence under this Agreement
18. **Memorandum.** Neither Owner nor Tenant shall record this Agreement in its entirety. Notwithstanding the foregoing, Owner acknowledges and agrees that Tenant, at Tenant's sole cost, is hereby authorized to record the Memorandum of Option in the official real property records of the County at any time after the Effective Date. In the event there is any error or inaccuracy in the legal description included on Exhibit A or Exhibit B to the Memorandum of Option that is recorded in accordance with this Section, Tenant shall be authorized to record a corrective Memorandum of Option correcting any such error, and Owner hereby agrees to execute any such amendment requested by Tenant. If this Agreement is terminated and Tenant has not exercised the Option, Tenant agrees to execute and record a release or other termination acknowledgment of the Memorandum of Option within thirty (30) days from the termination or expiration of this Agreement.

19. **Survival.** In the event the Option is exercised by Tenant, except as otherwise expressly set forth herein, the provisions of this Agreement shall not survive and the provisions of the Lease Agreement shall control. The indemnification obligations of Section 5.2, Section 6.1.7, and Section 22 of this Agreement and the provisions of Sections 6, 7, and 8 of this Agreement shall survive the expiration or earlier termination of this Agreement prior to the exercise of the Option for a period of two (2) years. The provisions of Sections 14, 15, and 16 of this Agreement shall survive the expiration or earlier termination of this Agreement indefinitely.
20. **Severability.** If any term, provision, condition or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.
21. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signature pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document. PDF or facsimile counterparts shall be deemed originals.
22. **Brokerage Fees.** Each party agrees that if any person or entity makes a claim for brokerage commissions or finder's fees to the other party related to this Agreement or the lease of the Property (or any portion thereof) by Owner to Tenant, and such claim is made by, through or on account of any acts or alleged acts of the indemnifying party or its representatives, the indemnifying party hereby agrees to protect, indemnify, defend and hold the indemnified party free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys' fees) in connection therewith.

[Signature page follows this page.]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below to be effective as of the Effective Date.

OWNER:


By: 
Name: Teresa Campanaro

Date: 12/14, 2020

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates set forth below to be effective as of the Effective Date.

TENANT:

BW Solar Holding Inc.,
a Delaware corporation

By 
Name: Tai Nguyen
Title: CEO

Date: 13-Jan, 2020 

Exhibit A

Legal Description of Land

County:	Oneida
Municipality:	City of Rome
Address:	6821 Martin Street
Total Acreage/Size:	42.33
SWMS:	301389
Tax ID:	259.001-0001-002



Exhibit B

Description of the Property

County:	Oneida
Municipality:	City of Rome
Address:	6821 Martin Street
Total Acreage/Size:	42.33
SWIS:	301389
Tax ID:	259.001-0001-002



Unless otherwise agreed in writing, the parties hereby acknowledge and agree that, in the event that the Tenant exercises the Option in accordance with the Agreement between the parties, the Project shall be located in the general vicinity of that portion of the land parcel of the Property identified by the purple shaded area in the diagram above.

Exhibit C

Form of Lease Agreement

[Follows this page]

Exhibit C
To
Option to Lease Agreement

[FORM OF SOLAR FACILITY GROUND LEASE]

LEASE SUMMARY

This lease summary (“**Lease Summary**”) is made a part of the Lease and it shall be incorporated into the provisions thereof; provided, however, that to the extent that there exists a conflict between this Lease Summary and the Lease, the Lease shall govern.

Effective Date:	[_____]
Owner:	Teresa Campanaro
Tenant:	BW Solar Holding Inc., a Delaware corporation
Option Agreement:	Owner and Tenant are parties to that certain Option to Lease Agreement dated as of [_____], 20[___] (the “ Option Agreement ”).
Owner’s Land:	Owner is the fee simple owner of those certain 42.33 acres, situated in Oneida County (the “ County ”), State of New York, and being more particularly described on <u>Exhibit A</u> attached to the Lease (collectively, the “ Land ”).
Property:	42.33 acres, situated in the County, State of New York, and being more particularly described on <u>Exhibit B</u> attached to the Lease, including all rights to use the surface of, and any easements, rights-of-way, and other rights and benefits relating or appurtenant to, such portion of the Land (collectively, the “ Property ”).
Lease Term:	<u>Construction Term:</u> The Lease and Leasehold Estate created thereby will commence upon the Effective Date and shall continue until the earlier of (a) the Commercial Operation Date or (b) the date that is two (2) years after the Effective Date (the “ Construction Term ”).

	<p><u>Operating Term:</u> Immediately upon the expiration of the Construction Term, the Lease shall continue in effect for twenty (20) years thereafter, subject to the terms of the Lease (collectively, as may be extended by any Renewal Terms (as hereinafter defined) in accordance with the terms of this Lease, the "Operating Term").</p> <p><u>Renewal Term(s):</u> Tenant may extend the Operating Term for up to four (4) renewal periods of five (5) years each (each, a "Renewal Term" and, collectively, the "Renewal Terms").</p> <p>The Construction Term, Operating Term and Decommissioning Term are hereinafter collectively referred to as the "Lease Term".</p>
<p>Rent:</p>	<p><u>During the Construction Term:</u> Tenant shall pay Owner annual payments of [REDACTED] per acre of the Property (the "Construction Payment(s)") in accordance with <u>Section 3.1</u>.</p> <p><u>During the Operating Term:</u> Tenant shall pay Owner rental payments for the Property (the "Rent") in the amount of [REDACTED] per acre of the Property for the first year of the Operating Term and will be [REDACTED] thereafter.</p> <p><u>During the Decommissioning Term:</u> Tenant shall pay Owner [REDACTED] per acre of the Property (the "Decommissioning Payment(s)") in accordance with <u>Section 3.3</u>. (see <u>Section 3</u> for further provisions)</p>
<p>Intended Use and Rights:</p>	<p>See <u>Section 4</u>.</p>
<p>Addresses for Notice:</p>	<p>To Owner:</p> <p>Teresa Campanaro 208 McCaskill Street Marshallville, GA 31057</p>

	<p>with a copy to:</p> <p>Colligan Law LLP 12 Fountain Plaza, Suite 600 Buffalo, New York 14202 Attention: David Colligan</p>
	<p>To Tenant:</p> <p>BW Solar Holding Inc. 2084 Maplewood Road St. Clements, Ontario Canada N0B 2M0 Attention: Tai Nguyen</p>

SOLAR FACILITY GROUND LEASE

This SOLAR FACILITY GROUND LEASE (the "Lease"), by and between Owner and Tenant, is made and entered into as of the Effective Date.

RECITALS:

A. Owner owns the Property and the Land.

B. Owner and Tenant are parties to that certain Option Agreement, whereby Owner granted to Tenant the exclusive right and option to lease the Property on the terms set forth herein.

C. Tenant has exercised its option to lease the Property from Owner for the development, construction, operation and maintenance of the Improvements (as hereafter defined) and a solar energy collection, conversion, generation, transmission and distribution facility (and including associated uses elected by Tenant from time to time, including but not limited to energy storage facilities, collectively, the "Project"), to be located on the Property (and, at Tenant's election, along with other real property located in the vicinity of the Property) pursuant to this Lease.

AGREEMENT:

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, Owner and Tenant agree as follows:

1. The Leasehold Estate Granted and Definitions.

1.1 Grant of Leasehold. Owner hereby leases the Property to Tenant, and Tenant hereby leases the Property from Owner, on the terms and conditions set forth in this Lease. Tenant shall have sole and exclusive possession of the Property during the Lease Term.

1.2 Leasehold Estate. As used herein, the term "Leasehold Estate" shall mean the entire right, title and interest of Tenant in and to the Property, as created by this Lease.

1.3 Definitions. The following terms are defined in this Lease as follows:

"Affiliate" shall mean, with respect to a person or entity, any other person or entity that directly or indirectly Controls, is Controlled by, is under common Control or ownership with, or is related by blood or marriage to, such person or entity.

"Applicable Law" shall mean all applicable laws, statutes, rules, ordinances, agency orders and regulations, and approved guidance documents of any and all governmental authorities with jurisdiction over the Property, activities on the Property, the Project or the Lease (and transactions contemplated hereunder), including zoning and land use laws and regulations and the rules and regulations promulgated by the County from

time to time in connection with the planning, siting, construction, operation, and decommissioning of energy projects and that are applicable to the Project.

“**Cell Tower Lease**” has the meaning set forth in Section 6.1.11.

“**Closing Date**” has the meaning set forth in Section 17.2.

“**Commencement of Construction**” means commencement by Tenant of any construction related to the Project, including but not limited to site clearing work, installation of fencing, temporary storage buildings or trailers, staging of equipment or construction materials, or construction or modification of any access road within the boundaries of the Property.

“**Commercial Operation Date**” means the date on which Tenant notifies Owner in writing that the completion of the construction and successful testing of the Project has occurred.

“**Construction Payment**” has the meaning set forth in the Lease Summary.

“**Construction Term**” has the meaning set forth in the Lease Summary.

“**Control**” or “**Controlled**” (including with correlative meaning, the terms “controlled by” and “under common control with”), as used with respect to any person or entity, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such person or entity, whether through the ownership of voting securities, by contract, judicial order or otherwise.

“**County**” has the meaning set forth in the Lease Summary.

“**Decommissioning Term**” has the meaning set forth in the Section 2.3.

“**Decommissioning Obligations**” has the meaning set forth in Section 15.3.

“**Deferred Tax Program**” has the meaning set forth in Section 10.3.

“**Disposition**” has the meaning set forth in Section 17.1.

“**Disposition Notice**” has the meaning set forth in Section 17.1.

“**Disposition Period**” has the meaning set forth in Section 17.3.

“**Easement**” or “**Easements**” has the meaning set forth in Section 4.3.

“**Effective Date**” has the meaning set forth in Lease Summary.

“**Environmental Law**” means any and all health, safety and other laws, rules, or regulations that govern or are applicable to any Hazardous Material.

“**Exercise Notice**” has the meaning set forth in Section 17.1.

“**Exercise Period**” has the meaning set forth in Section 17.1.

“**Event of Default**” has the meaning set forth in Section 14.

“**Force Majeure Event**” has the meaning set forth in Section 16.

“**Hazardous Materials**” means any substance or material that is regulated by or is defined as a toxic, dangerous or hazardous substance or pollutant under any Applicable Law.

“Improvements” has the meaning set forth in Section 4.1.2.

“Intended Use” has the meaning set forth in Section 4.1.

“Land” has the meaning set forth in the Lease Summary.

“Lease” has the meaning set forth in the introductory paragraph.

“Lease Documents” has the meaning set forth in Section 6.1.1.

“Lease Term” has the meaning set forth in the Lease Summary.

“Leasehold Estate” has the meaning set forth in Section 1.2.

“Leasehold Mortgagee” has the meaning set forth in Section 7.1.

“Losses” means any liability, loss, claim, damage, cost or expense of a party to this Lease that is subject to an indemnification obligation of the other party under this Lease (including reasonable attorneys’ fees).

“Material Adverse Effect” means a material adverse effect on the Project, the Intended Use, or the business, results of operations or condition (financial or otherwise) of the impacted party taken as a whole, or a material adverse effect on the impacted party’s ability to fulfill its obligations under this Lease and/or the other Lease Documents.

“Memorandum” has the meaning set forth in Section 19.3.14.

“Modifications” has the meaning set forth in Section 7.5.1.

“Mortgage” has the meaning set forth in Section 7.1.

“Non-Curable Defaults” has the meaning set forth in Section 7.4.3.

“Notice of Claim” has the meaning set forth in Section 8.3.

“Operating Term” has the meaning set forth in the Lease Summary.

“Operations” means Tenant’s conduct of Project development, construction, operations or maintenance.

“Option Agreement” has the meaning set forth in the Lease Summary.

“Owner” has the meaning set forth in the Lease Summary.

“Owner’s Interest” has the meaning set forth in Section 13.

“Owner Mortgage” has the meaning set forth in Section 7.5.1.

“Owner Mortgagee” has the meaning set forth in Section 7.5.1.

“Owner’s Parties” (and each, an **“Owner Party”**) means Owner and its officers, directors, partners, members, Affiliates, lenders, employees, shareholders, tenants (other than Tenant), subtenants, licensees, invitees, contractors, subcontractors, consultants, agents and any of their respective successors and assigns.

“**Permitted Encumbrances**” shall mean all of those matters of record affecting the Property more particularly set forth on Exhibit E.¹

“**Permitted Owner Transferee(s)**” has the meaning set forth in Section 17.4.

“**Project**” has the meaning set forth in Recital C.

“**Property**” has the meaning set forth in the Lease Summary.

“**Renewal Term**” has the meaning set forth in the Lease Summary.

“**Rent**” has the meaning set forth in the Lease Summary.

“**ROFR**” has the meaning set forth in Section 17.1.

“**Solar Energy**” means all rights of Owner to the radiant energy emitted from the sun upon, over and across the Land.

“**Sublease**” has the meaning set forth in Section 7.2.

“**Subtenant**” has the meaning set forth in Section 7.2.

“**Tenant**” has the meaning set forth in the Lease Summary.

“**Tenant’s Interest**” has the meaning set forth in Section 13.

“**Tenant’s Parties**” (and each, a “**Tenant Party**”) means Tenant and its officers, directors, partners, members, Affiliates, Leasehold Mortgagees, employees, shareholders, attorneys, sublessees, licensees, invitees, contractors, subcontractors, consultants, agents and any of their respective successors and assigns.

1.4 Rules of Construction.

1.4.1 As used in this Lease and in any certificate or other document made or delivered pursuant hereto, accounting terms not defined in this Lease or in any such certificate or other document, and accounting terms partly defined in this Lease or in any such certificate or other document to the extent not defined, shall have the respective meanings given to them under GAAP. To the extent that the definitions of accounting terms in this Lease or in any such certificate or other document are inconsistent with the meanings of such terms under GAAP, the definitions contained in this Lease or in any such certificate or other document shall control.

1.4.2 The words “hereof,” “herein,” “hereunder,” and words of similar import when used in this Lease shall refer to this Lease as a whole and not to any particular provision of this Lease; Article, Section, subsection, Exhibit and Schedule references contained in this Lease are references to Articles, Sections, subsections, Exhibits and Schedules in or to this Lease unless otherwise specified; the term “including” means “including without limitation”; and the term “or” is not exclusive.

¹ Determined in accordance with the Option to Lease Agreement.

1.4.3 The definitions contained in this Lease are applicable to the singular as well as the plural forms of such terms and to the masculine as well as to the feminine and neuter genders of such terms.

1.4.4 The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope and intent of any provisions of this Lease.

2. Lease Term.

2.1 Construction Term. This Lease and the Leasehold Estate created hereby will commence upon the Effective Date, during which Tenant shall be allowed to construct the Project and Improvements.

2.2 Operating Term. The Operating Term shall commence automatically upon the expiration of the Construction Term without any requirement for action by Owner, Tenant, or any other party, and this Lease and the Leasehold Estate created hereby will continue in effect for twenty (20) years thereafter, unless sooner terminated as provided for herein or extended pursuant to Tenant's right to extend the term as provided for in Section 2.4.

2.3 Decommissioning Term. For a period commencing automatically and immediately upon the expiration of the Operating Term and expiring the earlier of (i) the date that Tenant has performed and completed its Decommissioning Obligations, and (ii) the date that is ten (10) months after the expiration or termination of the Operating Term ("**Decommissioning Term**"), Owner hereby grants to Tenant and the Tenant's Parties a license to enter upon the Land to perform the Decommissioning Obligations.

2.4 Renewal Terms. Tenant shall have the right to extend the Operating Term by providing written notice to Owner at least three (3) months prior to the expiration of the then-current Operating Term. Each Renewal Term shall be upon the same terms, covenants, and conditions as provided in this Lease.

3. Rent.

3.1 The Construction Term. During the Construction Term, Tenant shall pay Owner payments equal to the Construction Payment on an annual basis within thirty (30) days after the Effective Date and the first anniversary of the Effective Date, as applicable. If the Construction Term expires prior to the first anniversary or second anniversary of the Effective Date, as applicable, the Construction Payment for any partial 365-day period shall be equal to the amount obtained by multiplying the Construction Payment times a fraction, the numerator of which is the number of days between the Effective Date or the first anniversary of the Effective Date, as applicable, and the date that the Construction Term expires and the denominator of which is 365. Tenant shall have the right to offset the amount of any overpayment of the Construction Payment against any future amounts that Tenant owes Owner. There shall be no Construction Payment owed for the Operating Term.

3.2 The Operating Term. During the Operating Term, Tenant shall pay Owner payments of Rent on an annual basis on the anniversary of the expiration of the Construction Term (including any Renewal Terms), with the first payment being due thirty (30) days after the expiration of the Construction Term. Subject to the terms of this Lease, if the Operating Term is terminated and such termination date is not on the anniversary of the expiration of the Construction Term, Tenant shall pay Owner a prorated amount equal to the product of the Rent multiplied by a fraction, the denominator of which shall be twelve (12) and the numerator of which shall be the number of months from the most recent anniversary of the expiration of the Construction Term to the date that the Lease terminates. Commencing on the first (1st) anniversary of the expiration of the Construction Term and every subsequent anniversary of the expiration of the Construction Term thereafter during the Operating Term (including any Renewal Terms), Rent will be increased by one percent (1%) over the amount of Rent in effect for the previous year.

3.3 The Decommissioning Term. During the Decommissioning Term, Tenant shall pay Owner payments equal to the Decommissioning Payment on a quarterly basis. The first Decommissioning Payment shall be paid by Tenant on the first (1st) day of the month immediately following the month in which the expiration of the Operating Term occurs. Tenant shall thereafter pay Owner a Decommissioning Payment during the Decommissioning Term on the first (1st) day of the third (3rd) month after the prior Decommissioning Payment was due and payable.

4. Use of Property.

4.1 Tenant's Rights. During the Lease Term, provided Tenant is not in default under the Lease, Tenant shall have exclusive use and possession of the Property, subject to the Permitted Encumbrances and the terms hereof. Tenant shall have the right to use the Property in compliance with Applicable Law for the development, testing, permitting, construction, installation, operation, maintenance, repair, replacement, repowering and decommissioning of the Project and for all uses contemplated in the permits or authorizations relating to the Project, including all activities necessary, incidental or convenient to that use, and any other lawful uses consistent with the operation of the Project, including the following uses and activities (collectively, the "**Intended Use**"):

4.1.1 Solar Energy Systems. Tenant may: (i) conduct studies and collect data relating to solar radiation, solar energy, environmental inventory and impact, geotechnical assessment, and other studies required for the development of a solar project; and (ii) construct, erect, relocate, repair, replace, maintain, operate and remove solar energy measurement, collection, conversion, generation, storage, transmission and distribution systems of any type and in such quantity as Tenant may determine, including all equipment and improvements necessary or useful for the conversion of Solar Energy into electricity or for the storage of electricity;

4.1.2 Transmission and O&M Facilities, Structures and Roads. Tenant may erect, maintain and operate such power transmission lines, poles, anchors, support structures, overhead and underground cables (including cables and other equipment for communications and data transmission purposes), substations, distribution and interconnection facilities,

operations and maintenance structures and facilities, and associated equipment and appurtenances, buildings, and roads for access and for installation and maintenance and any other buildings as Tenant in its reasonable sole discretion deems to be necessary or appropriate to further the other uses permitted hereby and to monitor, operate, produce, transmit and/or store power and transport workers, tools, material, equipment and other necessary items to and from or across the Property. Any equipment, facilities, structures or other improvements erected or constructed on the Property pursuant to Section 4.1.1 and this Section 4.1.2 shall collectively be referred to herein as the “**Improvements**”;

4.1.3 Use of aerial drones. Subject to compliance with any Applicable Laws, Tenant may utilize commercial drone apparatus within the Property and the airspace directly above the Property to further the purposes of this Lease. Such use shall be limited to images of the Property, and shall in no event permit imaging of any adjacent or other property whatsoever;

4.1.4 Specific Right to Use and Demolish Existing Structures, Improvements, and Landscaping. Without limitation of any and all other rights under this Lease, Tenant will have the specific right, subject to reasonable notice provided to Owner and an opportunity for Owner to inspect prior to the Tenant exercising such right, to occupy, use, renovate, rebuild, demolish, and/or remove any existing structures for any and all purposes related to the Intended Use, including as an office and/or living quarters in connection with Tenant’s Operations. In addition, Tenant shall have the right to remove, trim, prune, top or otherwise control the growth of any tree, shrub, plant or other vegetation and to remove fences, gates, berms, walls, and cattle guards as Tenant determines to be necessary to accommodate the Project;

4.1.5 Right to Control Access. Tenant shall have the right under the Lease to control and restrict access onto and over the Property and exclude others (other than any parties with pre-existing easement rights of record or other rights approved by Tenant);

4.1.6 Use of Owner’s Roads. Subject to any applicable restrictions in the Permitted Encumbrances, Tenant shall have the right to use, without charge, any and all roads on the Property which are necessary for the Intended Use, and shall have the right to maintain (at Tenant’s expense) those which it shall determine from time to time are important to its Operations;

4.1.7 Water and Sewage. Except as expressly set forth in this Section 4.1.8, Owner shall retain all subsurface and surface water rights, interests, and claims appurtenant and/or related to the Property. Subject to the foregoing, and to the existence and priority of any water rights held by Owner or any third party and the availability (legally or practically) of such water, Tenant, at Tenant’s sole cost and expense, shall have the right (a) to install a water well or water wells on the Property for the use of water from any such water well(s) to be used for the purposes of construction, operation and maintenance of the Project, including the cleaning of solar modules, landscaping and/or domestic use in connection with the operation of the Project; and (b) to provide for sewer treatment during the Lease Term for any operations or maintenance building or similar structures constituting part of Tenant’s Improvements. Tenant’s water rights granted pursuant to this Section 4.1.8 shall be subject to any requirements and limitations imposed by federal, state and local governmental

authorities, water districts or other regulatory entities, including the obtaining of any permit(s) required under Applicable Laws. Other than through its payments of Rent, Tenant shall not be obligated to pay Owner for the annual use of water that is extracted from any wells on the Property. Tenant shall be responsible for all costs and fees related to any such water well(s) and sewer treatment facility and the means to convey the water from the well(s) to the Project and to treat sewage. Owner shall reasonably cooperate with Tenant in obtaining any permits or approvals that are necessary in connection with the foregoing activities, provided that Tenant shall reimburse Owner for all of its out-of-pocket costs (including, but not limited to, reasonable attorneys' fees) directly incurred in connection with such cooperation; provided further, that Owner and Tenant shall agree upon reasonable estimates of such expenses prior to Owner being required to provide such cooperation. At the end of the Lease Term, Tenant shall relinquish ownership of any such well or wells to Owner, provided that Owner must accept the well or wells "AS IS", and Tenant will make no warranties as to the condition of such well or wells; and

4.1.8 No Nuisance. Owner acknowledges and agrees that the construction, operation and maintenance of the Project pursuant to the terms hereof shall not, in and of itself, constitute a nuisance upon or interference with Owner's use of its adjacent properties in any way whatsoever.

4.1.9 Mineral Rights. Any rights to oil, gas, salt, or other minerals ("Minerals") in, on, or under the Property and held by Owner are hereby waived by Owner or its lessees or assignees regarding use of the surface of the Property to explore, drill, access, extract, mine, exploit, or otherwise make use of such Minerals during the Lease Term, and Owner and its lessees and assignees shall exercise any rights to such Minerals solely via directional drilling or other similar means which shall not penetrate or otherwise disturb the surface of the Property within Five Hundred (500) feet of the Project ("Surface Waiver"). If any third party holds any rights to Minerals in, on, or under the Property, Owner shall obtain a Surface Waiver from such third party for the benefit of Tenant in form and content acceptable to Tenant and any title company employed by Tenant. Any directional drilling or other subsurface Mineral activities of Owner and/or its lessees or assignees or any other party shall take place at a depth of not less than five hundred (500) feet below the surface and shall not adversely affect the lateral or subjacent support of the Project or interfere with Tenant's Operations or rights under this Agreement in any way. Any new Minerals leases or grants of any Minerals rights to third parties, including renewals or extensions of existing leases, options to lease, seismic permits, or any other agreement made by Owner with a third party regarding any Minerals which are made after the Effective Date shall be made subject to the terms and conditions of this Lease, shall be inferior and subordinate to the rights created under this Lease, and all such holders of Mineral rights or lessees shall automatically be bound by the terms of this Section 4.1.10. All such agreements entered into by Owner shall contain a paragraph referencing this Lease.

4.2 Quiet Possession. Owner warrants that it has fee title to the Property and the right to lease the Property for the Lease Term, and covenants so long as an Event of Default has not occurred and is then continuing with respect to Tenant under the Lease, Tenant shall have the peaceable and quiet possession of the Property for the Lease Term in accordance with the terms of this Lease.

4.3 Easements. Beginning on the Effective Date and for the Lease Term, Owner hereby grants to Tenant, and Tenant hereby accepts from Owner, the following easements and rights-of-way in, to, over, under and across the Land (each such easement, an "Easement" and collectively, the "Easements"):

4.3.1 A non-exclusive and irrevocable easement and right of way for pedestrian and vehicular access, ingress to and egress from the Property over and across the Land at all times, with or without all machinery, material, supplies and equipment for all purposes necessary or convenient to the exercise and enjoyment of the rights granted to Tenant herein, by means of roads and lanes located thereon, if such exist, otherwise by such road(s) or route(s) as Tenant may install on occasion;

4.3.2 A non-exclusive and irrevocable easement and right of way to construct, install, operate, maintain, inspect, reconstruct, enlarge, relocate, rebuild, repair, remove, and to make one or more connections to above-ground and/or underground electrical transmission, collection and/or distribution lines and conduits, together with all necessary lines, poles, wires, cables, junction boxes, and other equipment, improvements, fixtures, accessories and appurtenances or operations thereto, including but not limited to cable markers and signage, in, upon, over, under, above and across the Land in such locations as Tenant may reasonably determine;

4.3.3 A non-exclusive and irrevocable general easement and right of way to construct, install, operate, maintain, inspect, reconstruct, enlarge, relocate, rebuild, repair, remove, and to make one or more connections to above-ground and/or underground water lines, fire lines, gas lines, storm drainage, sewer lines, telephone lines, fiber lines, and other associated utility facilities and/or distribution lines and conduits, together with all necessary lines, poles, wires, cables, junction boxes, and other equipment, improvements, fixtures, accessories and appurtenances or operations thereto, including but not limited to cable markers and signage, in, upon, over, under, above and across the Land to service the Project in such locations as Tenant may reasonably determine;

4.3.4 An exclusive and irrevocable general effects easement in, upon, over, under, above and across the Land for visual, view, light, flicker, noise, shadow, vibration, electromagnetic, electrical and radio frequency interference, and any other effects attributable to, or generated by, the Project; and,

4.3.5 An exclusive and irrevocable general non-obstruction easement and right of way in, upon, over, under, above and across the Land for the right and privilege to use, maintain, and capture the free and unobstructed sunlight over and across the Land. The area of Land to remain unobstructed by Owner will consist horizontally of the entire Land, and vertically all space located above the surface of the Land. Owner shall not engage in any activity or construct or permit to be constructed any structure on the Land or any other neighboring property owned or controlled by Owner that might interfere with the solar irradiance or insolation over any portion of the Land; cause a decrease in the output or efficiency of the Project and/or related facilities; or otherwise interfere with Tenant's operation of the Project or exercise of any rights granted in this Lease, including, without limitation, by the emission of suspended particulate matter, smoke, fog, steam, or other airborne impediments

to insolation. If Owner has actual knowledge of any potential development or other activity on adjacent or nearby properties that could diminish the Insolation to the Property, Owner shall advise Tenant of such information and reasonably and promptly cooperate with Tenant, at no cost to Owner unless such interference is caused by Owner or its Affiliates, officers, agents or employees (in which event the no cost provision shall not apply), in measures to preserve existing levels of insolation at the Property.

4.3.6 Each of the Easements shall (i) be appurtenant to this Lease and the Property, (ii) burden and run with and against the Land, (iii) be for the benefit of Tenant and Tenant's Subtenants (as hereafter defined), licensees, successors, and assigns, and (iv) be remain force and effect for the entirety of the Lease Term, including any Renewal Term(s). Tenant shall have the right to assign this agreement and its rights hereunder in whole or in part, and to grant sub-easements, in its sole discretion. Tenant may mortgage, pledge or otherwise encumber Tenant's interest in any Easement granted herein and any improvements or facilities constructed within the easement areas of the Land encumbered by such Easement as a whole or any undivided interest therein. Each of the Easements includes (i) the right to mark the location of any easement area by suitable markers, (ii) the right from time to time to trim and to cut down and clear away any and all trees and brush and remove any obstructions now or hereafter in any easement area which now or hereafter in the opinion of Tenant may be a hazard to the Project, or which may otherwise interfere with the exercise of Tenant's rights hereunder, (iii) the right to grade any easement area for the full width thereof and to extend the cuts and fills for such grading into and on the land in such easement areas to such extent as Tenant may find reasonably necessary, and (iv) the right to install, maintain and use gates in all fences which now cross or shall hereafter cross the easement areas. Upon any such request by Tenant, Owner shall execute one or more easement agreements and related consents or authorizations as Tenant may reasonably request to evidence or effectuate the easement rights granted to Tenant pursuant to this Lease. If Tenant requires the removal of timber from the Land, Tenant shall provide written notice to Owner requesting that Owner remove such timber as designated by Tenant off of the Property, at Owner's sole cost, risk and expense, and to locations that will not interfere with the construction or operation of the Project. Within fifteen (15) days of receipt of such notice from Tenant, Owner shall notify Tenant whether it shall elect to remove such timber no later than twenty (20) days after the date thereof. If: (i) Owner does not notify Tenant of its election to remove the timber from the Property within the aforementioned fifteen (15) days, or (ii) if Owner, after notifying Tenant of its election to do so, fails to remove the timber from the Property within the aforementioned twenty (20) days, at Owner's sole cost, risk and expense, Tenant shall thereafter have the right to remove the timber from the Property and dispose of the same at Tenant's sole discretion.

5. Construction of Improvements

5.1 Governmental Approvals. Prior to Commencement of Construction, and thereafter at all times during the Lease Term, Tenant shall, at Tenant's expense, obtain and maintain all approvals or licenses necessary or appropriate for the construction and development of the Improvements and for the construction, development, use and operation of Tenant's Project in compliance with all Applicable Law. Owner shall reasonably and promptly cooperate with Tenant as necessary to obtain any such approvals and licenses (including by signing any permit applications, permits, owner consents, or affidavits, if requested to do so by Tenant), and Tenant

shall reimburse Owner for all reasonable costs and expenses paid to any third party and incurred by Owner in connection with providing any cooperation requested by Tenant pursuant to this Section 5.1.

5.2 Owner acknowledges Tenant is intending to use the Property for the Intended Use. Except as specifically permitted by this Lease, during the Lease Term Owner shall not (i) grant or permit the conveyance of any rights under this Lease or in or to the Property to any other party or (ii) amend, terminate or surrender any documents or rights relating to this Lease, in each case, without Tenant's prior written consent or direction. Owner shall not grant permission for or otherwise permit any person or entity to enter on the Property without Tenant's consent and shall not, currently or prospectively, interfere with the Intended Use in any manner, including: the development, construction, installation, maintenance, operation, or decommissioning of the Project or Tenant's Improvements; access over the Property to such Improvements; or Tenant's rights granted hereunder to use the Property for the Intended Use. Owner shall not conduct activities in, on or about the Property. Owner shall give Tenant prompt notice of any damage or defective condition in any part or appurtenance of the Property of which Owner has actual knowledge and could reasonably be expected to affect the Project or Tenant's Operations on the Property.

5.3 Reserved.

5.4 Tenant's Right to Construct Security Devices. Subject to Applicable Law, Tenant may, at its sole expense, construct and maintain security devices on the Property that Tenant deems appropriate and necessary for the protection of the Improvements, including, but not limited to, any type of fencing, security monitoring or other security safeguards and Owner shall not construct any fencing on the Property except with Tenant's prior written consent. Nothing in this Section 5.3 shall be construed to require Tenant to repair, maintain or replace any fence existing on the Property on the Effective Date or any other fences erected by Owner on the Property. In addition, Tenant shall be permitted to remove and/or relocate any fencing previously installed on the Property, at Tenant's cost and expense, as may be necessary to accommodate Tenant's construction and/or operation of the Improvements. Owner shall abide by all reasonable safety measures instituted by or on behalf of Tenant as to which Owner has received notice.

5.5 Mechanics' Liens. Tenant shall pay, when due, all costs for any construction done by it or caused to be done by it on the Property. Tenant shall keep the Property free and clear of all mechanics' liens, vendor's liens or any other liens arising out of any work performed, materials furnished or obligations incurred by Tenant, and Tenant agrees to defend, indemnify and hold Owner harmless from and against any such lien or claim or action thereon, together with costs of suit and reasonable attorneys' fees and costs incurred by Owner in connection with any such claim or action if Tenant fails to perform its obligations under this Section 5.5. In the event that there shall be recorded against the Property any claim or lien arising out of any such work performed, materials furnished or obligations incurred by Tenant and such claim or lien shall not be removed or discharged within sixty (60) days of Tenant receiving written notice of such filing, then unless Tenant has posted a statutory mechanics lien bond against said lien, Owner shall have the right, but not the obligation, to pay and discharge such lien and Tenant shall reimburse Owner for the amount so expended within thirty (30) business days after Owner's written demand.

5.6 Ownership of Improvements. All Improvements constructed or installed on the Property are, and shall remain, the property of Tenant and may be removed by Tenant in its sole discretion, at any time, and Owner shall have no right, title or interest therein. The parties agree that all Improvements constructed or installed on the Property by or on behalf of Tenant, whether prior to or after the Effective Date, are intended solely for the use and benefit of Tenant in connection with its commercial activities conducted on the Property and are hereby severed by agreement and intention of the parties and shall remain severed from the Property, shall be considered with respect to the interests of the parties hereto as the property of Tenant or other party designated by Tenant, and, even though attached to or affixed to or installed upon the Property, shall not be considered to be fixtures or a part of the Property and shall not be or become subject to the lien of any mortgage or deed of trust heretofore or hereafter placed on the Property by Owner. Owner hereby waives all rights, statutory or common law, or claims that it may have in the Improvements including any right of distraint.

5.7 Compliance with Applicable Laws. In conducting its Operations on the Property or the Land, Tenant shall comply in all material respects with all Applicable Laws; however, Tenant may contest the validity or applicability of any law (including any property tax) to Tenant, the development, construction, ownership or operation of the Project, or any other activity or property of Tenant, by appropriate legal proceedings brought in the name of Tenant or, where appropriate or required, in the names of both Tenant and Owner. Any such contest or proceeding, including any initiated by Tenant and maintained in the name of Owner, shall be directed and controlled by Tenant, but in consultation with Owner and at no cost to Owner, excepting proceedings that arise due to Owner's violation of any law. Owner agrees to reasonably cooperate with Tenant regarding any such proceeding, including the execution of any document required by the applicable authority for Tenant to represent Owner's interest therein.

5.8 Exercise of Caution. Owner recognizes the need to exercise extreme caution when in proximity to any of the solar facilities and the importance of respecting gates, fences, signage, rules and other safety measures utilized by Tenant, and Owner agrees to exercise such caution and respect such measures at all times and to cause its principals, members, officers, employees, agents, representatives and contractors to do the same, with failure to do so constituting a material default and subjecting Owner to an obligation of indemnify Tenant for the consequences thereof, including any damages or losses arising therefrom. Owner is aware of the potential risks associated with the production and transmission of electricity, and knowingly waives all claims resulting from trespass by Owner onto Property, and Owner shall have no right to indemnity pursuant to Section 8.1 for any such claims.

6. Representations and Warranties; Covenants.

6.1 Representations and Warranties of Owner. Owner hereby represents and warrants to Tenant that, as of the Effective Date, the following are true, correct and complete; and Owner acknowledges and agrees that such representations and warranties (and any other representations, warranties and certifications of Owner contained in this Lease) may be conclusively relied upon by (a) Tenant, (b) any existing or proposed sublessee, licensee, successor or assignee of Tenant, (c) any existing or proposed Lender; and (d) any title company proposing to issue title insurance to Tenant, its sublessees, licensees, assignees, or lender:

6.1.1 Authority. Owner has the power and authority to enter into, deliver and perform this Lease and the other documents contemplated to be executed and delivered by Owner in connection with the transactions contemplated hereby (collectively, the “Lease Documents”). The execution, delivery and performance of Lease Documents by Owner have been duly and validly approved by Owner and any and all persons or entities whose approval is necessary to the validity hereof or thereof, and no other action on the part of Owner is necessary to approve the Lease Documents and/or to consummate the transactions contemplated in the Lease Documents, or any of them. This Lease and each of the other Lease Documents has been, or as of the date required by Tenant, will have been, duly and validly executed and delivered by Owner and, assuming due and valid authorization, execution and delivery by Tenant, this Lease constitutes, and each other Lease Document will constitute, a valid and binding obligation of Owner, enforceable against Owner in accordance with its terms, except as enforcement may be limited by general principles of equity and/or by bankruptcy, insolvency, moratorium and similar laws affecting creditors’ rights and remedies generally.

6.1.2 No Violations or Defaults. Neither the execution and delivery of the Lease Documents by Owner nor the consummation by Owner of the transactions contemplated in the Lease Documents, nor compliance by Owner with the terms and provisions of any one or more of the Lease Documents will: (i) violate any provision of the instruments or agreements by which the Owner is formed and/or governed, (ii) violate any of the terms or provisions of any instrument or obligation encumbering the Property and/or by which Owner or any Affiliate of Owner is bound, or (iii) to the best of Owner’s knowledge, violate any Applicable Law.

6.1.3 Consents and Approvals. Except for consents and approvals, the failure of which to obtain will not have and would not reasonably be expected to have a Material Adverse Effect on Tenant, to Owner’s actual knowledge without duty of inquiry, no consents or approvals of, or filings or registrations with any court, administrative agency or commission or other governmental authority or instrumentality or with any other third party by Owner are necessary in connection with the execution, delivery and performance of this Lease and the other Lease Documents by Owner.

6.1.4 Title. Owner is the sole fee simple owner of the Property, including all water and mineral rights pertaining to the Land, subject to no exceptions other than the Permitted Encumbrances. To the best of Owner’s knowledge, except to the extent true and complete copies have been provided to Tenant (and listed on Schedule 1 attached hereto), there are no unrecorded leases, liens or other agreements, written or oral, in effect that are binding upon the Property. Owner has not granted or entered into any options, rights of first refusal, rights of first offer, offers to sell or lease, agreements to purchase or sell, or solar energy or other easements on all or any part of the Property, or any other rights to use the Property for renewable energy purposes, other than with Tenant pursuant to this Lease.

6.1.5 No Brokers. Neither Owner nor any Affiliate of Owner nor any of their respective officers, directors or employees has employed any broker or finder or incurred any liability for any brokers’ fees, commissions or finders’ fees as a result of the execution of this Lease.

6.1.6 Legal Proceedings.

(a) Neither Owner nor any Affiliate of Owner is a party to any, and to Owner's actual knowledge without duty of inquiry, there are no pending or threatened legal, administrative, arbitral or other proceedings, claims, actions or governmental or regulatory investigations of any kind or nature whatsoever against Owner or any Affiliate of Owner or pertaining to the Property or challenging the validity or propriety of this Lease, the Lease Documents and/or transactions contemplated in this Lease and/or the Lease Documents; and

(b) To Owner's actual knowledge without duty of inquiry, there is no injunction, writ or governmental order, judgment or similar decree applicable to Owner or any of its Affiliates which imposes any restrictions on Owner or any of its Affiliates with respect to the Lease, the Property or the Leasehold Estate.

6.1.7 Compliance with Applicable Laws. To Owner's actual knowledge, Owner is not in violation of any Applicable Laws respecting the Property or this Lease that would result in a Material Adverse Effect.

6.1.8 Environmental Conditions. Owner has not stored, released or generated on the Property any Hazardous Materials, except to the extent permitted by and in compliance with Applicable Laws. To the best of Owner's knowledge, the Property is in compliance with all Applicable Laws governing the use, handling, or storage of Hazardous Materials.

6.1.9 Disclosure. Owner further represents and warrants that the information furnished in Schedule 1, "Owner's Disclosure", is truthful and accurate.

6.1.10 Tax Exemptions. No portion of the Property has benefited from or is subject to any special tax valuation, tax deferral or tax exemption, or is enrolled in or classified under any conservation reserve, tax deferral or other similar programs.

6.1.11 Cell Tower. Owner has leased a portion of the Land to a cell tower company pursuant to the terms of a lease agreement ("**Cell Tower Lease**"), a copy of which has not been provided to the Tenant. At no time during the Lease Term will all or any portion of the Property be encumbered by either the Cell Tower Lease or any easements granted thereby.

6.2 Owner's Covenants.

6.2.1 Non-Interference. Owner shall not interfere with, and shall not allow any other party on the Land to impair or obstruct the passage of, sunlight to or through the Property. This restriction includes any vegetation, trees, structures, or improvements that would impair or obstruct the passage of sunlight to or through the Property, except that vegetation and/or trees located on the Land as of the Effective Date may remain so long as the vegetation and/or trees are not permitted to cast a shadow upon the Project and other structures or improvements may remain, subject to Tenant's rights under Section 4 of this Lease. Owner shall not conduct any activity, nor grant any rights to any third party, whether on the Property or elsewhere, that would interfere in any way with, or materially increase the cost of, Tenant's use of the Property or exercise of any of the rights granted under this Lease.

6.2.2 Exclusive Use. Throughout the Lease Term and any Renewal Term(s), Tenant shall have exclusive possession of, and the sole and exclusive right to use, the Property for the Intended Use and any and all activities related to the Project.

6.3 Mutual Covenants. Tenant and Owner hereby makes the following covenants:

6.3.1 Compliance With Law. Each party shall, at its expense, comply (and cause its Affiliates and other related parties to comply) in all material respects with each Applicable Law to its (or their) operations or activities on the Property; provided, however, that each party shall have the right, in its sole discretion, to contest, by appropriate legal proceedings (which may be brought in the name(s) of Owner and/or Tenant where appropriate or required), the validity or applicability of any such Applicable Law, and the other party shall cooperate in every reasonable way in such contest, at no out-of-pocket expense thereto.

6.3.2 Hazardous Materials. Each party shall, at its sole cost and expense, promptly clean up, remove or take other legally-authorized remedial action with regard to any contamination or damage to soil or ground water on or about the Property caused by any Hazardous Material for which it or its related parties are responsible, and for which clean up, removal or remedial action is required pursuant to any Environmental Law. Neither Party nor its Affiliates or related parties shall violate any Environmental Law on, under or with respect to the Property. Each party shall (a) give the other party written notice of any breach or suspected breach of the foregoing covenants, promptly upon learning of such breach; (b) undertake such clean up, removal or remedial action in a manner designed to minimize the impact on the other party's and its related parties' activities and operations on the Property; and (c) cooperate with the other party with regard to any scheduling or access to the Property in connection with any action required by this Section 6.3.

6.3.3 Tax Credits. If, under Applicable Law, the holder of a leasehold interest in the nature of that held by Tenant or any of its Subtenants, licensees, successors or assigns under this Lease or any Sublease becomes ineligible for any tax credit, benefit or incentive for alternative energy expenditure established by any local, municipal, federal or state government, then, at Tenant's option, Owner and Tenant shall amend this Lease or replace it with a different instrument so as to convert Tenant's interest in the Property to a substantially similar interest that makes Tenant eligible for such tax credit, benefit or incentive.

6.3.4 Certificates. Each party (the "Responding Party") shall, within ten (10) days after written request by the other party or any existing or proposed Subtenant, licensee, successor or assign of Tenant or any lender (each, a "Requesting Party"), execute and deliver to the Requesting Party an estoppel certificate, in a form reasonably satisfactory to the Requesting Party, (a) certifying that this Lease is in full force and effect and has not been modified (or if modified stating with particularity the nature thereof), (b) certifying the dates to which the Rent has been paid, (c) certifying that to the best of the Responding Party's knowledge there are no uncured Events of Default hereunder (or, if any uncured Events of Default exist, stating with particularity the nature thereof) and (d) containing any other certifications as may reasonably be requested. Any such certificates may be conclusively relied upon by the Requesting Party. The failure of the Responding Party to deliver any such certificate within such time shall be conclusive upon the Responding Party that (i) this Lease

is in full force and effect and has not been modified, (ii) the Rent has been paid through the date of such written notice, (iii) there are no uncured Events of Default by the Requesting Party hereunder and (iv) the other certifications so requested are in fact true and correct. Owner acknowledges that such certificates will likely be required of Owner in connection with each transaction relating to the Project.

6.4 No Other Representations and Warranties. The parties are not making or relying upon any representations or warranties except to the extent expressly set forth in this Lease. Each party acknowledges and agrees that it has undertaken and is relying upon its own due diligence evaluation of the Project and the Property. Except for any representations or warranties expressly set forth in this Lease or any other agreement delivered by Owner, Tenant acknowledges and agrees that Owner has not made, does not make and specifically disclaims any and all representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, including, but not limited to those representations, warranties, promises, covenants, agreement and guaranties of, as to, concerning or with respect to (a) the nature, quality or condition of the Property or the Land, including, without limitation, any improvements, the water, soil and geology, (b) the income to be derived from the Property or the Land, (c) the suitability of the Property or the Land for any and all activities and uses which Tenant may conduct thereon, (d) the compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body, including, without limitation, the Americans with Disabilities Act and any rules and regulations promulgated thereunder or in connection therewith, (e) the habitability, merchantability or fitness for a particular purpose of the Property or the Land, or (f) any other matter with respect to the Property or the Land, and specifically that Owner has not made, does not make and specifically disclaims any representations regarding solid waste, as defined by the U.S. Environmental Protection Agency regulations at 40 C.F.R., Part 261, or the disposal or existence, in or on the Property, of any hazardous substance, as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, and applicable state laws, and regulations promulgated thereunder. Tenant further acknowledges and agrees that having been given the opportunity to inspect the Property and the Land, and except for any representation or warranty expressly set forth in this Lease or any other agreement delivered by Owner, Tenant is relying solely on its own investigation of the Property and the Land and not on any information provided or to be provided by Owner. Tenant further acknowledges and agrees that any information provided or to be provided with respect to the Property and the Land was obtained from a variety of sources and that Owner has not made any independent investigation or verification of such information. Tenant further acknowledges and agrees that, as a material inducement to the execution and delivery of this Lease by Owner, and except for any representation or warranty expressly set forth in this Lease or any other agreement delivered by Owner, the lease of the Property by Owner to Tenant pursuant to this Lease is made on an "AS IS, WHERE IS" CONDITION AND BASIS "WITH ALL FAULTS." Tenant acknowledges, represents and warrants that Tenant is not in a significantly disparate bargaining position with respect to Owner in connection with the transaction contemplated by this Lease; that Tenant freely and fairly agreed to this acknowledgment as part of the negotiations for the transaction contemplated by this Lease; that Tenant is represented by legal counsel in connection with this transaction.

7. Assignment, Subletting, Mortgage.

7.1 Right to Mortgage. Tenant or any Subtenant may, at any time and from time to time, without obtaining Owner's consent, hypothecate, mortgage (including by deed of trust or personal property security instrument), grant or pledge all or any portion of its right, title, or interest under this Lease or to the Property, the Project, Improvements, any easements, or any Sublease to any Leasehold Mortgagee as security for the repayment of any indebtedness and/or the performance of any obligation (a "Mortgage"). As used herein, the term "Leasehold Mortgagee" collectively includes any financial institution or other person or entity that from time to time provides secured financing to Tenant, a Subtenant, or their Affiliates secured by some or all of the Improvements or the Project, and any agent, security agent, collateral agent, indenture trustee, loan trustee, loan participant or participating or syndicated lenders involved in whole or in part in such financing, as well as any party or parties providing tax equity financing to Tenant, to a Subtenant or to any of their respective Affiliates (as applicable) (even if such tax equity financing is not secured by a Mortgage or other security interest in the Property or Tenant's or such Subtenant's interest in this Lease or its Sublease (as applicable), and their respective representatives, successors and assigns. In connection with any financing or refinancing of the Project by Tenant, its Subtenants, successors, or assigns, Owner shall in good faith negotiate and agree upon a consent to collateral assignment of this Lease in a form that is commercially reasonable and customary in the industry.

7.2 Assignment and Subletting. Tenant and each of its Subtenants (as hereafter defined) may not assign, transfer, or sublease this Lease to any person or entity without the prior written consent of Owner, which shall not be unreasonably withheld, conditioned, or delayed; provided, however, without Owner's prior written consent, Tenant or its Subtenants may: (a) assign, sublease or grant a license in, or otherwise transfer all or any portion of its right, title, or interest under this Lease or to the Property, the Project, any easements, or any Sublease (as hereafter defined) (each, a "Transfer"), to (x) any Affiliate, (y) any entity that acquires all or part of Tenant's interest in the Project, or (z) any Leasehold Mortgagee pursuant to Section 7.1. Except as expressly provided in this Section 7.2, neither party shall assign this Lease or its rights hereunder without the prior written consent of the other party. Any person or entity that receives a sublease, separate easement, co-easement, subeasement, license or similar right of Tenant's right, title and interest under this Lease and in the Leasehold Estate (a "Sublease"), is referred to herein as a "Subtenant". With respect to such a transfer, assignment or Sublease: (i) the term thereof shall not extend beyond the end of the Lease Term or any Renewal Term; (ii) the same shall be expressly made subject to all of the terms, covenants and conditions of this Lease; and (iii) any new assignee shall simultaneously execute an assignment and assumption agreement, agreeing to be bound by all of the terms, covenants, and agreements of this Lease.

7.3 Notice to Owner. Tenant or any Subtenant that has entered into a transfer, assignment or Sublease or has granted a Mortgage shall give written notice of the same (including the name and address of the assignee, Subtenant or Leasehold Mortgagee, as the case may be) to Owner; provided, however that the failure to give such notice shall not constitute a default or Event of Default (as defined below) under this Lease but rather shall only have the effect of relieving Owner from any obligation to provide default notices and cure rights to such assignee, Subtenant or Leasehold Mortgagee until such notice is given. Owner hereby consents to the

recordation of documentation reflecting the interest of the assignee, Subtenant or Leasehold Mortgagee in the Official Records of the County.

7.4 Leasehold Mortgagee and Subtenant Protections. Notwithstanding any other provision of this Lease:

7.4.1 Rights of Leasehold Mortgagee. Owner's consent shall not be required for any of the following actions by a Leasehold Mortgagee, which any Leasehold Mortgagee shall have the sole and absolute right to do: (i) assign its Mortgage; (ii) enforce its Mortgage; (iii) acquire title (whether by foreclosure, assignment in lieu of foreclosure or other means) to this Lease or the Sublease (as the case may be); (iv) take possession of and operate the Improvements or the Project; (v) assign or transfer this Lease or the Sublease (as the case may be) to a third party; (vi) exercise any rights of Tenant or a Subtenant hereunder or with respect to this Lease or the Sublease (as the case may be) or (vii) cause a receiver to be appointed to do any of the foregoing things, nor shall Owner's consent be required for any third party to acquire title via foreclosure or assignment in lieu of foreclosure; and, upon acquisition of this Lease or the Sublease (as the case may be) by a Leasehold Mortgagee or any other third party who acquires the same from or on behalf of the Leasehold Mortgagee or via foreclosure or assignment in lieu of foreclosure, Owner shall recognize the Leasehold Mortgagee or such other party (as the case may be) as Tenant's or such Subtenant's (as the case may be) proper successor, and this Lease or the Sublease (as the case may be) shall remain in full force and effect.

7.4.2 Notice of Leasehold Mortgage. Where Tenant has given written notice to Owner in accordance with Section 19.1 of the name and mailing address of a Leasehold Mortgagee and/or Subtenant, Owner shall, as a precondition to exercising any rights or remedies as a result of any real or alleged default or Event of Default by Tenant, deliver a duplicate copy of each and every notice of default to each such Leasehold Mortgagee and Subtenant (at the address for such Leasehold Mortgagee or Subtenant indicated in Owner's notice) concurrently with delivery of such notice of default to Tenant, specifying in detail the default or Event of Default and the required remedy.

7.4.3 Cure Periods. Each Leasehold Mortgagee and Subtenant shall have the same period of time after receipt of a notice of default to remedy a default or Event of Default, or cause the same to be remedied, as is given to Tenant after Tenant's receipt of a notice of default hereunder, plus, in each instance, the following additional time periods: (i) thirty (30) days in the event of any monetary default or Event of Default; and (ii) sixty (60) days in the event of any non-monetary default or Event of Default; provided, however, that (a) such sixty (60)-day period shall be extended for the time reasonably required by the Leasehold Mortgagee or Subtenant to complete such cure, including the time reasonably required for the Leasehold Mortgagee to obtain possession of the Leasehold Estate or subleasehold estate, as the case may be (including possession by a receiver), institute foreclosure proceedings or otherwise perfect its right to effect such cure, in each case specified in this clause (a) to the extent that such Leasehold Mortgagee or Subtenant is prosecuting any such proceedings to completion with commercially reasonable diligence, and (b) neither the Leasehold Mortgagee nor such Subtenant shall be required to cure those Events of Default which are not reasonably susceptible of being cured or performed by Tenant ("Non-Curable Defaults"), it being agreed

that Tenant's default under Section 14.3 shall conclusively be deemed to be a Non-Curable Default. Further, (1) neither the bankruptcy nor the insolvency of Tenant shall be grounds for terminating this Lease as long as the Rent and all other amounts payable by Tenant hereunder are paid by a Leasehold Mortgagee or Subtenant in accordance with the terms thereof and (2) Non-Curable Defaults shall be deemed waived by Owner upon the Leasehold Mortgagee's completion of foreclosure proceedings or other acquisition of the Leasehold Estate or subleasehold estate (as the case may be).

7.4.4 Extended Cure Periods. If any default or Event of Default by Tenant under this Lease cannot be cured by a Leasehold Mortgagee without its obtaining possession of all or part of the Property, then such default or Event of Default shall nonetheless be deemed remedied if: (i) within sixty (60) days after receiving notice from Owner as set forth in Section 7.4.2, a Leasehold Mortgagee acquires possession of the Property, or commences appropriate judicial or nonjudicial proceedings to obtain the same; (ii) the Leasehold Mortgagee is prosecuting any such proceedings to completion with commercially reasonable diligence; and (iii) after gaining possession thereof, the Leasehold Mortgagee performs all other obligations of Tenant (other than in connection with Non-Curable Defaults) as and when the same are due in accordance with the terms of this Lease, including the payment of all past due amounts due to Owner under this Lease. If a Leasehold Mortgagee is prohibited by any process or injunction issued by any court or by reason of any action of any court having jurisdiction over any bankruptcy or insolvency proceeding involving Tenant or a Subtenant, as the case may be, from commencing or prosecuting the proceedings described above, then the sixty (60)-day period specified above for commencing such proceedings shall be extended for the period of such prohibition.

7.4.5 Limitations on Recourse. A Leasehold Mortgagee that does not directly hold an interest in the Leasehold Estate or subleasehold estate (as the case may be), or that holds a Mortgage, shall not have any obligation under this Lease prior to the time that such Leasehold Mortgagee succeeds to absolute title to such estate; and such Leasehold Mortgagee shall be liable to perform obligations under this Lease only for and during the period of time that such Leasehold Mortgagee directly holds such absolute title. Further, in the event that a Leasehold Mortgagee elects to (i) perform Tenant's obligations under this Lease; (ii) continue Tenant's or any Subtenant's Operations on the Property; (iii) acquire any portion of Tenant's or a Subtenant's right, title or interest in the Property or under this Lease or a Sublease (as the case may be); or (iv) enter into a new agreement as provided in Section 7.4.6, then such Leasehold Mortgagee shall not have any personal liability to Owner in connection therewith, and Owner's sole recourse in the event of default by such Leasehold Mortgagee shall be to execute against such Leasehold Mortgagee's interest in the Leasehold Estate or subleasehold estate (as the case may be), the Improvements and the Project. Moreover, any Leasehold Mortgagee or other party who acquires the Leasehold Estate or subleasehold estate (as the case may be) pursuant to foreclosure or an assignment in lieu of foreclosure shall not be liable to perform any obligations hereunder to the extent the same are incurred or accrue after such Leasehold Mortgagee or other party no longer has ownership of such Leasehold Estate or subleasehold estate.

7.4.6 Replacement Lease. In the event that this Lease is rejected or disaffirmed pursuant to bankruptcy law or any other law affecting creditor's rights, then, so long as a Leasehold Mortgagee has cured any monetary Events of Default and is making commercially reasonable efforts to cure any non-monetary Events of Default (other than the bankruptcy of Tenant) as provided herein, Owner shall, immediately upon written request from such Leasehold Mortgagee received within ninety (90) days after any such termination, rejection or disaffirmance, without demanding additional consideration therefor, enter into a new agreement in favor of such Leasehold Mortgagee, which new agreement shall (i) contain the same covenants, agreements, terms, provisions and limitations as this Lease (except for any requirements that have been fulfilled by Tenant or a Subtenant prior to such termination, rejection or disaffirmance); (ii) be for a term commencing on the date of such termination, rejection or disaffirmance, and continuing for the remaining term of this Lease before giving effect to such termination, rejection or disaffirmance including any rights to exercise Renewal Terms; and (iii) enjoy the same priority as this Lease over any lien, encumbrance or other interest created by Owner; and, until such time as such new agreement is executed and delivered, the Leasehold Mortgagee may enter, use and enjoy the Property and conduct Operations thereon as if this Lease were still in effect. At the option of the Leasehold Mortgagee, the new agreement may be executed by a designee of such Leasehold Mortgagee, without the Leasehold Mortgagee assuming the burdens and obligations of Tenant thereunder. If more than one Leasehold Mortgagee makes a written request for a new agreement pursuant hereto, then the same shall be delivered to the Leasehold Mortgagee whose Mortgage is senior in priority.

7.4.7 Cooperation. At Tenant's request and sole expense, Owner shall use its commercially reasonable efforts to cooperate in a prompt manner with Tenant and any Subtenant in Tenant's or such Subtenant's (as applicable) efforts to obtain financing from a Leasehold Mortgagee, including the amendment of this Lease to include any provision that may reasonably be requested by an existing or proposed Leasehold Mortgagee, and shall execute such additional documents as may reasonably be required to evidence such Leasehold Mortgagee's rights hereunder; provided that Owner shall have no obligation to grant a lien on or security interest in the fee title to the Property in favor of any Leasehold Mortgagee and shall not be obligated to enter into any modification of this Lease which has a material adverse economic effect on Owner or other Material Adverse Effect on Owner. Further, Owner shall, within ten (10) days after written notice from Tenant, a Subtenant or any existing or proposed Leasehold Mortgagee, execute and deliver thereto a certificate to the effect that (i) Owner recognize such entity as a Leasehold Mortgagee or Subtenant (as applicable) under this Lease and (ii) will accord to such entity all the rights and privileges of a Leasehold Mortgagee or Subtenant (as applicable) hereunder.

7.4.8 No Termination of Lease. Where Tenant has given written notice to Owner in accordance with Section 19.1 of the name and mailing address of a Leasehold Mortgagee, Owner shall not accept a termination of this Lease by Tenant without the prior written consent of such Leasehold Mortgagee unless such termination is done pursuant to an express provision of this Lease.

7.5 Owner Mortgages.

7.5.1 Right to Mortgage. Owner shall be entitled to grant a lien or otherwise encumber Owner's fee estate in the Land or interest in this Lease or any part thereof or therein (a "**Owner Mortgage**") to an Owner Mortgagee; provided, said grant or encumbrance shall be subject and subordinate to this Lease and any modifications or extensions hereof or any new lease made pursuant to Section 7.4.6 (collectively, "**Modifications**"), and all rights of Tenant under this Lease (including any Leasehold Mortgagee, Subtenant and any party claiming by and through Tenant). The grant of a lien or encumbrance by Owner in favor of an Owner Mortgagee shall not be a lien prior to this Lease or any Modifications. Any encumbrance by Owner shall not be deemed to give any such assignee any greater rights than Owner hereunder or the right to cancel the Lease or any Modifications unless there is an Event of Default on the part of Tenant (which remains uncured by either Tenant or the Leasehold Mortgagee) which, under the terms of this Lease or any Modifications, gives Owner a right to cancel this Lease or any Modifications, and withhold from such Leasehold Mortgagee a new lease pursuant to Section 7.4.6. As used herein, the term "**Owner Mortgagee**" collectively includes any financial institution or other person or entity that from time to time provides secured financing to Owner secured by the Owner's fee interest in the Land or its rights under this Lease or any part thereof or therein, and any agent, security agent, collateral agent, indenture trustee, loan trustee, loan participant or participating or syndicated lenders involved in whole or in part in such financing, and their respective representatives, successors and assigns.

7.5.2 Non-Disturbance and Subordination Agreements: Cure Period. If Owner's interest in this Lease is encumbered by an Owner Mortgage, (i) if requested by Tenant, Owner and Owner Mortgagee shall promptly execute and deliver to Tenant a non-disturbance agreement and subordination agreement in a form reasonably acceptable to Tenant and Leasehold Mortgagee (if any) evidencing compliance with Section 7.5.1 and (ii) if requested in writing by Owner or Owner Mortgagee, Tenant shall give Owner Mortgagee, at such address as may be specified by Owner or Owner Mortgagee (as such address may be changed, from time to time, by Owner or Owner Mortgagee by notice to Tenant), duplicate copies of all notices to Owner and all documents and suits delivered to or served upon Owner, and no notice intended for Owner shall be deemed properly given, and no default of Owner hereunder shall be deemed to have occurred unless Tenant shall have given Owner Mortgagee a copy of its notices to Owner relating to such default. Further, no default of Owner shall be deemed to have occurred by reason of the expiration of Owner's cure period (or period for permitted commencement of cure) as provided in this Lease unless, following the expiration of such period, an additional ten (10) business days shall have expired following delivery to Owner Mortgagee at the last address provided of written notice from Tenant specifying (i) the nature of the potential default, (ii) this Lease Section together with the Lease Section requiring the applicable performance, (iii) that the applicable period for Owner's cure or commencement of cure has expired without cure or commencement of cure by Owner and (iv) that unless Owner Mortgagee cures or commences to cure within ten (10) business days of receipt of such notice (and thereafter diligently pursuant such cure to completion), default shall occur and all applicable cure periods shall have expired. Owner Mortgagee shall have the right to pay any amount or perform any act required of Owner and so remedy any default under this Lease or cause the same to be remedied, and Tenant shall accept such performance by Owner Mortgagee as if the same had been made by Owner.

7.5.3 Attornment. If Owner Mortgagee shall succeed to the rights of Owner under this Lease, then (i) at Owner Mortgagee's request, Tenant shall attorn and recognize such mortgagee or beneficiary as Tenant's Owner under this Lease and shall promptly execute and deliver any instrument reasonably necessary to evidence such attornment and (ii) Owner Mortgagee shall promptly cause to be delivered to Tenant a non-disturbance agreement and subordination agreement signed by Owner and Owner Mortgagee (including any new Owner Mortgagee) in a form reasonably acceptable to Tenant and Leasehold Mortgagee (if any) evidencing compliance with Section 7.5.1. Upon such attornment this Lease shall continue in full force and effect as, or as if it were, a direct lease between such successor Owner and Tenant.

7.6 Owner's Cooperation. Owner shall fully support and reasonably cooperate (and shall use reasonable efforts to cause any other person or entity with any other right, title or interest in the Property to cooperate) with Tenant in the conduct of its construction and Operations and in otherwise giving effect to the purpose and intent of this Lease, including in Tenant's efforts to obtain from any governmental authority or any other person or entity any environmental impact review, permit, entitlement, approval, authorization or other rights necessary or convenient in connection with construction and Operations; and Owner shall (and shall use reasonable efforts to cause any such other person or entity to) promptly upon request, without demanding additional consideration therefor (but at no unreimbursed cost or expense to Owner), execute, and, if appropriate, cause to be acknowledged and recorded, any map, application, permit or document that is reasonably requested by Tenant in connection therewith (as well as any amendment to this Lease or any recordable memorandum executed in connection herewith for purposes of correcting or replacing property descriptions based on surveys or other relevant information obtained after the Effective Date, or making other non-substantive corrections, additions or substitutions). Without limiting the generality of the foregoing, in connection with any application by Tenant for a governmental permit, approval, authorization, entitlement or other consent, Owner agrees (and shall use reasonable efforts to cause any such other person or entity to agree) (but at no unreimbursed cost or expense to Owner) not to oppose, in any way, whether directly or indirectly, any such application or approval at any administrative, judicial or legislative level.

7.7 Setback Waiver. To the extent that (i) Owner now or in the future owns or leases any land adjacent to the Property, or (ii) Tenant or any Affiliate thereof owns, leases or holds an easement over land adjacent to the Property and has installed or constructed or desires to install or construct any Improvements on such land at and/or near the common boundary between the Property and such land, Owner hereby waives any and all setbacks and setback requirements, whether imposed by Applicable Law or by any person or entity, including any setback requirements described in any applicable zoning ordinance or in any governmental entitlement or permit heretofore or hereafter issued to Tenant or such Affiliate. Further, if so requested by Tenant or any such Affiliate, Owner shall promptly, without demanding additional consideration thereof, execute, and if appropriate cause to be acknowledged and recorded, any setback waiver, setback elimination or other document or instrument required by any governmental authority or that Tenant or such Affiliate deems necessary or convenient to the obtaining of any entitlement or permit.

8. Indemnification.

8.1 Indemnification by Tenant. Tenant agrees to indemnify, defend and hold harmless Owner and Owner's Parties for, from and against any and all Losses (excluding consequential damages unless required to be paid by Owner pursuant to a legal judgment obtained by a third party against Owner for a claim for which Tenant is required to provide indemnity hereunder), to the extent resulting from or arising out of (i) any Operations of Tenant on or around the Property; (ii) any negligent act or failure to act or willful misconduct on the part of Tenant or any Tenant's Parties while on the Property; (iii) any breach or inaccuracy of any representations or warranties made by Tenant under this Lease; or (iv) any actual or alleged violations of any Applicable Law (other than any Applicable Law regarding Hazardous Materials, which are governed solely by the provisions of Sections 18.3 and 18.4). These indemnifications shall survive the termination of this Lease. These indemnifications shall not apply to any Losses to the extent (a) caused by any negligent or deliberate act or omission or willful misconduct on the part of Owner or any Owner's Parties or (b) covered by insurance to the extent proceeds to cover Losses are received by Owner. Notwithstanding the foregoing, with respect to the defense, indemnity and hold harmless covenants made by Tenant in favor of Owner, neither Tenant nor any Affiliate or agent of Tenant shall be liable to Owner for (a) any crops damaged or destroyed, or any farmland taken out of production, that would normally be caused as a result of Operations conducted by, or any portion of, the Project or similar Solar Energy projects; (b) physical injuries or death (including by reason of any hunting on the Property) to any persons or property, to the extent caused by or attributable to Owner or any of Owner's Parties; (c) any breach of any covenant, and any failure to be true of any representation or warranty, made by the Owner under this Lease; or (d) the presence or release of Hazardous Materials in, under, on or about the Property which are or were brought or permitted to be brought onto the Property by the Owner or any of Owner's Parties.

8.2 Indemnification by Owner. Owner agrees to indemnify, defend and hold harmless Tenant and any Tenant's Parties for, from and against any and all Losses (excluding consequential damages unless required to be paid by Tenant pursuant to a legal judgment obtained by a third party against Tenant for a claim for which Owner is required to provide indemnity hereunder), to the extent resulting from or arising out of (i) any operations of Owner on the Property, (ii) any negligent act or failure to act or willful misconduct on the part of Owner or any Owner's Parties while on the Property, or (iii) any breach or inaccuracy of any representations or warranties made by Owner under this Lease. These indemnifications shall survive the termination of this Lease. These indemnifications shall not apply to Losses to the extent (a) caused by any negligent or deliberate act or omission or willful misconduct on the part of Tenant or any Tenant's Parties or (b) covered by insurance to the extent proceeds to cover Losses are received by Tenant.

8.3 Notice of Claim. Subject to the terms of this Lease and upon obtaining knowledge of a claim for which it is entitled to indemnity under this Section 8, the indemnified party shall, within fifteen (15) days of obtaining such knowledge, deliver a notice of such claim ("**Notice of Claim**") to the indemnifying party. The failure to provide (or timely provide) a Notice of Claim will not affect the indemnified party's rights to indemnification; provided, however, the indemnifying party is not obligated to indemnify the indemnified party for the increased amount of any loss which would otherwise have been payable to the extent that the increase resulted from the failure to deliver timely a Notice of Claim.

8.4 Defense of Third Party Claims. The indemnifying party shall defend, in good faith and at its own expense, any claim or demand pursuant to Section 8.1 or 8.2 as set forth in a Notice of Claim relating to a third party claim, and the indemnified party, at its expense, may participate in the defense, unless (a) the indemnifying party chooses counsel not reasonably acceptable to the indemnified party or (b) the indemnifying party does not pursue with reasonable diligence such defense, in which case the indemnified party's participation shall be at the indemnifying party's expense. The indemnified party shall have a right to notice of any settlement, and the indemnifying party shall not execute or otherwise agree to any consent decree which provides for other than monetary payment within such indemnifying party's sole ability to pay without the indemnified party's prior written consent, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, the indemnified party shall have the right to pay or settle any such claim, provided that in such event it shall waive any right to indemnity therefor by the indemnifying party. If the indemnifying party elects not to defend or settle such proceeding, claim or demand and the indemnified party defends, settles or otherwise deals with any such proceeding, claim or demand, the indemnified party shall provide thirty (30) days' advance written notice of any settlement, which settlement may be without the consent of the indemnifying party, to the indemnifying party and will act reasonably and in accordance with its good faith business judgment. The indemnified party and the indemnifying party shall cooperate fully with each other in connection with the defense, negotiation or settlement of any such legal proceeding, claim or demand.

8.5 Access to Information. If any claim is made by a third party against an indemnified party, the indemnified party shall use its best efforts to make available to the indemnifying party those partners, directors, officers and employees whose assistance, testimony or presence is necessary to assist the indemnifying party in evaluating and in defending such claims; provided, however, that any such access shall be conducted in such a manner as not to interfere unreasonably with the operations of the business of the indemnified party but failure to use commercially reasonable efforts to provide necessary witnesses or access to information will excuse indemnifying party's performance.

8.6 Reduction for Insurance and Other Recovery. The indemnities set forth at Section 8.1 above shall be subject to the restrictions contained herein this Section 8.6. The gross amount which an indemnifying party is liable to, for, or on behalf of any indemnified party shall be reduced by any insurance proceeds, payments received in respect of a judgment or settlement or other amounts actually recovered by or on behalf of the indemnified party related to the loss. If an indemnified party shall have received or shall have had paid on its behalf an indemnity payment in respect of a loss and shall subsequently receive directly or indirectly insurance proceeds, payments in respect of a judgment or settlement or other amounts in respect of such loss, then the indemnified party shall pay to the indemnifying party all such amounts received or, if less, the amount of the indemnity payment.

9. Insurance. Tenant at its expense will maintain or cause to be maintained at all times: (a) insurance with respect to the Improvements against loss or damage by fire, lightning, and other risks; and (b) commercial general liability insurance, including personal injury and property damage for claims arising out of or connected with the possession, use, leasing, operation, alteration, repair, or condition of the Property.

10. Taxes.

10.1 Taxes Payable by Tenant. From and after the Effective Date, subject to terms and conditions of this Section 10.1, Owner shall pay all real property taxes and assessments levied against the Property and Tenant shall pay, within thirty (30) days of receipt of such tax bills from Owner, only the following: (i) all property taxes, assessments, and similar charges that are directly attributable to the Improvements installed by Tenant; and (ii) any increase in the ad valorem property taxes levied against the Property that are assessed for the period from the Effective Date until the end of the Lease Term to the extent such increase is caused by the installation of the Improvements. Notwithstanding the foregoing or anything herein to the contrary, Owner hereby acknowledges and agrees that Owner shall pay and be liable for any rollback taxes assessed due to a change of use of the Property or a loss of any agricultural exemption or other tax exemption on the Property. The Tenant's aforementioned obligation shall not include any increases in taxes due to a reassessment upon a transfer of any interest in the Property by Owner. Owner shall submit to Tenant a copy of all notices, tax bills, and other correspondence Owner receives from any taxing authorities regarding any taxes Tenant is required to pay hereunder within thirty (30) days after Owner receives same, and it is a condition to Tenant's obligations to timely make payment or reimbursement of taxes that Tenant is obligated to pay hereunder that Tenant receives the real property tax bill no later than twenty (20) business days prior to the delinquency date for such taxes. If such bills are not received in a timely fashion, Owner shall be responsible for paying any penalties or interest assessed because of any late payment. Notwithstanding any other provision of this Section 10.1, if the law expressly permits the payment of any property taxes in installments (whether or not interest accrues on the unpaid balance), Tenant may, at its election, utilize the permitted installment method, but shall pay each installment with any interest before delinquency. Tenant shall have the right to contest the correctness or validity of any taxes, assessments, and charges for which it is responsible hereunder, so long as such contest does not result in loss of or to the Property.

10.2 Tax Credits; RECs. All (a) tax credits, tax incentives or tax related grants or benefits and (b) renewable energy credits or other environmental attributes, credits or incentives relating to the Project are, and shall remain, the property of Tenant.

10.3 Tax Cooperation. Owner shall reasonably cooperate with Tenant, at Tenant's sole cost and expense, to minimize any taxes related to the Project, including taking any steps necessary to reasonably assist in the securing of property tax incentives and any other applicable federal, state, and/or municipal law, rule, or regulation.

10.4 Limitation on Tenant's Responsibility for Taxes. Notwithstanding any other provision of this Section 10, in no event shall Tenant be obligated to pay for (a) any income taxes attributable to Owner; (b) any mortgage or transfer tax imposed against Owner; (c) any increase in the assessed value of the Property for tax purposes caused by Owner other than as a result of entering into and/or performing this Lease or the Lease Documents; or (d) taxes or assessments arising from or related to operations on any adjacent land owned by Owner.

11. Utilities. Tenant shall pay, before delinquency, all charges for utilities consumed at the Property for water, gas, electricity, heat, light, power, telephone and other public services used by Tenant in or upon the Property. At Tenant's request, Owner shall grant easements for any

utilities to be constructed on the Property and, if requested by Tenant, Owner shall execute separate recordable easement instruments evidencing such easements. Owner shall not be liable for damages, by abatement of Rent or otherwise, for any interruption in the availability of any utility or service that is not attributable to any act or omission by Owner. Such unavailability will not constitute an eviction or a disturbance of Tenant's use and possession of the Property or relieve Tenant from paying Rent or performing any of Tenant's obligations under this Lease. Owner shall use commercially reasonable efforts to cooperate with Tenant in Tenant's efforts to obtain utility service to and from the Property.

12. Maintenance, Repair and Alterations. Throughout the term of this Lease, subject to a Force Majeure Event, Tenant shall, at no cost or expense to Owner, keep and maintain the Improvements that are constructed by Tenant on the Property in a safe condition, subject to normal wear and tear. Such Improvements and all aspects of the Project shall be maintained by Tenant at Tenant's expense at all times in material compliance with Applicable Laws.

13. Condemnation. Should title or possession of all of the Property be taken in condemnation proceedings by a government agency, governmental body, public utility, or any other entity authorized by law to exercise the right of eminent domain, or should a partial taking render the remaining portion of the Property unsuitable for Tenant's use, then, at Tenant's written election, this Lease shall, in Tenant's sole discretion, either: (i) terminate upon the date specified in such written election or (ii) remain in place with an equitable reduction in Rent based on the impact of the taking on Tenant's use of the Property. All payments made on account of any taking by eminent domain shall be apportioned between the valuation given to Tenant's interest in the Leasehold Estate, the Project and the Improvements ("Tenant's Interest") and Owner's interest in this Lease and the Land (taking into consideration the value of the Rent to be paid by Tenant for the remainder of the Lease Term as if this Lease had not been terminated) ("Owner's Interest"), and Tenant shall not be required to pursue a separate award from the condemning authority, nor shall Tenant's right to condemnation proceeds under this Section 13 be affected by the refusal of the condemning authority to make a separate award in favor of Tenant. The portion relating to the Tenant's Interest shall be paid to Tenant, and the portion relating to the Owner's Interest shall be paid to Owner; provided that Tenant shall also be entitled to any award made for the reasonable removal and relocation costs of any removable property that Tenant has the right to remove, and for the loss and damage to any such property that Tenant elects or is required not to remove, and for any loss of income from the Project, and for the loss of use of the Property by Tenant to the extent of Tenant's interest as Tenant, the loss in value of the Leasehold Estate, and loss of any goodwill. The balance of any award, including severance damage, if any, shall be payable to Owner. It is agreed that Tenant shall have the right to participate in any condemnation proceedings and settlement discussions and negotiations thereof and that Owner shall not enter into any binding settlement agreement without the prior written consent of Tenant, which consent shall not be unreasonably withheld, conditioned or delayed. If Owner and Tenant cannot reasonably agree on any amounts due pursuant to this Section 13, then within ten (10) days after receipt of written request by any party, Owner and Tenant shall appoint a real estate valuation and/or appraisal consultant (the "Qualified Appraiser") having experience in valuating solar projects and related assets and a minimum of ten (10) years' experience in the market in which the Project is located who shall select either Owner's determination or Tenant's determination, whichever the Qualified Appraiser finds more accurately reflects the underlying amount. The

Qualified Appraiser shall be instructed to notify Owner and Tenant of such selection within ten (10) days after such Qualified Appraiser's appointment. The Qualified Appraiser shall have no power or authority to select any amount other than the underlying amounts submitted by Owner or Tenant, nor shall the Qualified Appraiser have any power or authority to modify any of the provisions of this Lease, and the decision of the Qualified Appraiser shall be final and binding upon Owner and Tenant. If Owner and Tenant do not timely agree in writing upon the appointment of the Qualified Appraiser, Tenant shall submit to Owner the names of three (3) Qualified Appraiser candidates, and Owner shall have ten (10) days after receiving such names to notify Tenant of which of the three (3) candidates Owner selects to determine the amounts in dispute. If Owner fails to timely notify Tenant of Owner's selection, Tenant shall have the right to unilaterally appoint the Qualified Appraiser. The fee and expenses of the Qualified Appraiser shall be shared equally by Owner and Tenant.

14. **Default.** Subject to the rights of Leasehold Mortgagees, Owner Mortgagees and Subtenants as provided in Section 7, each of the following events shall constitute an "Event of Default" by a party:

14.1 **Failure to Pay.** The failure or omission by either party to pay amounts required to be paid pursuant to this Lease when due hereunder, and such failure or omission has continued for thirty (30) days after written notice from the non-defaulting party;

14.2 **Failure to Perform.** The failure or omission by either party to observe, keep or perform any of the other terms, agreements or conditions set forth in this Lease, and such failure or omission has continued for thirty (30) days (or such longer period as may reasonably be required to cure such failure or omission, provided that cure has commenced and such party is diligently proceeding to complete such cure) after written notice from the non-defaulting party;
or

14.3 **Bankruptcy.** A party files for protection or liquidation under the bankruptcy laws of the United States or any other jurisdiction or has an involuntary petition in bankruptcy or a request for the appointment of a receiver filed against it, and such involuntary petition or request is not dismissed within one hundred twenty (120) days after filing.

The occurrence of any Event of Default shall permit the non-defaulting party to pursue any and all remedies available to it at law or in equity, all of which remedies shall be cumulative. Such remedies shall include the right of the non-defaulting party to pay or perform any obligations of the defaulting party that have not been paid or performed as required hereunder, and to obtain (a) subrogation rights therefor and (b) immediate reimbursement from the defaulting party for the actual, reasonable and verifiable out-of-pocket costs of such payment or performance. Notwithstanding any other provision of this Lease or any rights or remedies that Owner might otherwise have at law or in equity, at all times while any portion of the Improvements or the Project are located on the Property, Owner shall not (and hereby waives the right to) commence any action or proceeding in which termination, cancellation, rescission, or reformation of this Lease is sought as a remedy, and Owner shall be limited to seeking damages in the event of any failure by Tenant to perform its obligations hereunder.

Upon the occurrence and during the continuation of an Event of Default by Owner, Tenant may, at its option, and in addition to and cumulatively of any other rights Tenant may have at law or in equity

or under this Lease, (a) terminate this Lease by notice to Owner and in conformity with procedures required hereby and by Applicable Law, or (b) enforce, by all proper and legal suits and other means, its rights hereunder. Tenant shall have the right but not the obligation after providing at least sixty (60) days' notice to Owner to perform, acquire, or satisfy any lien, encumbrance, agreement or obligation of the Owner which is a lien or encumbrance on the Property or Improvements.

15. Termination.

15.1 Expiration. Unless terminated pursuant to Section 14 or Section 15.2, this Lease shall continue until the end of the Lease Term or any duly exercised Renewal Term(s).

15.2 Tenant's Termination Right. Tenant may elect to terminate this Lease at any time upon at least sixty (60) days' prior written notice to Owner and payment to Owner of all Rent (prorated for any partial year) and other amounts due but not yet paid and that would otherwise be due by Tenant hereunder up to and including the effective date of termination specified in Tenant's termination notice. All amounts paid by Tenant to Owner prior to such termination shall be retained by Owner.

15.3 Decommissioning.

15.3.1 Removal. Upon the termination or expiration of this Lease, Tenant shall: (i) remove all Improvements and personal property of Tenant; (ii) complete the decommissioning of the Project in compliance with all Applicable Laws and regulations within the Decommissioning Term; (iii) and shall pay Rent in accordance with Section 3.3 (subclauses (i) and (ii) above, collectively, the "**Decommissioning Obligations**").

15.3.2 Decommissioning Security. No later than the tenth (10th) anniversary of the Commercial Operation Date, Tenant shall post a bond or letter of credit as surety for the cost of its Decommissioning Obligations, provided that: (i) the maximum amount of such bond or letter of credit hereunder shall be limited up to and not exceed the aggregate amount of \$20,000/MWac, net of the salvage value of the Improvements or equipment to be removed, and (ii) to the extent that any governmental authority requires a decommissioning or restoration bond, letter of credit, cash deposit, or other security to cover Tenant's removal and restoration obligations with respect to the Improvements, or any portion thereof, then Tenant shall instead comply with the requirements of such governmental authority. In such event, Owner acknowledges and agrees that Tenant's compliance with such governmental decommissioning and restoration security requirements shall fulfill, replace and satisfy all of Tenant's bond or letter of credit obligations of this Section 15.3.

15.3.3 Drawing upon Decommissioning Security. If an Event of Default occurs with respect to Tenant's performance of its Decommissioning Obligations, then Owner may draw upon the bond or letter of credit provided by Tenant in accordance with this Section 15.3.2 only to cure such Event of Default by Tenant.

15.3.4 Return of Decommissioning Security. Notwithstanding anything herein to the contrary, upon the expiration or earlier termination of this Lease, and so long as Tenant has performed its Decommissioning Obligations in accordance with Section 15.3.1, Owner hereby agrees to return to Tenant the bond or letter of credit delivered by Tenant pursuant to Section 15.3.2 (if and to the extent not previously drawn in full), and any remaining unapplied balance of the proceeds drawn by Owner pursuant to Section 15.3.3 (as well as an accounting of any and all draws with accompanying receipts and evidentiary documentation), no later than five (5) business days after such expiration or earlier termination of this Lease.

16. Force Majeure. Notwithstanding any other provision of this Lease, if Tenant's performance under this Lease or any obligation hereunder is interfered with, delayed, restricted, or prevented, in whole or in part, by causes beyond such party's reasonable control, including but not limited to strikes, riots, fires, floods, lightning, rain, earthquake, extraordinary wind or other weather events, war, invasion, insurrection, acts of terrorism, civil commotion, unavailability of resources due to national defense priorities, any act of God, binding orders, actions or inactions of any court or governmental authority, local, state or federal laws, regulations or ordinances, technological impossibility or any other similar or dissimilar cause beyond its reasonable control (each, a "**Force Majeure Event**"), upon Tenant providing notice of such Force Majeure Event, the requirement of performing such obligation shall be postponed by a period equal to the period of time that such performance under this Lease is prevented or delayed by such Force Majeure Event.

17. Right of First Refusal in Favor of Tenant.

17.1 Generally. If, during the Lease Term, Owner receives an offer or proposal, or proposes to enter into a binding agreement, to sell, assign, transfer, or convey the Property (a "**Disposition**") to any third party, then Owner shall give notice of such proposed Disposition (the "**Disposition Notice**") to Tenant. The Disposition Notice shall set forth all material terms of the proposed Disposition, including the price to be sought for the Property and the payment terms. Tenant shall have the right of first refusal (the "**ROFR**"), exercisable by notice (the "**Exercise Notice**"), on or before the thirtieth (30th) day after the Disposition Notice is given (the "**Exercise Period**"), to acquire for the same or higher purchase price, on the same or better payment terms and on other terms and conditions as are set forth in the Disposition Notice, all of the Property described in the Disposition Notice. Tenant's Exercise Notice must provide that it will purchase all of the Property described in the Disposition Notice. By delivery of an Exercise Notice, Tenant shall be deemed to have accepted Owner's offer set forth in the Disposition Notice. If Tenant fails to exercise its ROFR by delivering an Exercise Notice during the Exercise Period, Tenant shall be deemed to have waived such ROFR with respect to the Disposition described in such Disposition Notice and Owner shall be permitted to Dispose of the Property described in the Disposition Notice in accordance with Section 17.3 below. Tenant agrees to execute and deliver a quitclaim of Tenant's rights under this Section 17 in recordable form at Owner's request following the expiration or termination of the Lease Term.

17.2 Closing Following Exercise Notice. If Tenant delivers an Exercise Notice, the closing of the purchase of the Property specified in such Disposition Notice shall occur in escrow with a reputable national title company selected by Owner on the thirtieth (30th) day (or next business day if such day is not a business day) after the date on which the Disposition Notice is given, unless the Owner and Tenant mutually agree upon a different place or date (“**Closing Date**”). At the closing on the Closing Date, (a) the Owner and Tenant shall execute and deliver such instruments (i) as are contemplated under the Disposition Notice and (ii) which are customary to give effect to the purchase and Disposition in the jurisdiction in which the Property is located; (b) Tenant shall deliver to the Owner in immediately available funds the purchase price for the Property described in the Disposition Notice; and (c) Owner shall deliver marketable title to the Property or the applicable portion thereof to Tenant by general warranty deed, in a form approved by Tenant in its sole discretion, and otherwise free and clear of all liens and other encumbrances, other than the Permitted Encumbrances and those otherwise created, approved, or agreed to by Tenant.

17.3 Failure to Exercise. If Tenant fails to timely deliver an Exercise Notice, then Owner shall have the right to effect a Disposition of the Property specified in the Disposition Notice on or before the twelfth (12th) month after the date the Disposition Notice was given (such period, the “**Disposition Period**”) on terms acceptable to Owner in Owner’s sole discretion. If, however, Owner fails to consummate the Disposition specified in the Disposition Notice during the Disposition Period, the proposed Disposition shall again be subject to the ROFR.

17.4 Excluded Transactions. The provisions of this Section 17 shall not apply to: (a) any sale or transfer of the Property to any entity which controls, is controlled by, or is under common control with Owner, or an entity which succeeds to the business of Owner by merger, consolidation, or other form of corporate reorganization (collectively, “**Permitted Owner Transferees**”); (b) the granting of any mortgage or deed of trust (including any amendments, modifications, or extensions thereof), the foreclosure of any mortgage or deed of trust, or the execution and delivery by Owner of a deed in lieu or contemplation of foreclosure in regard to, Owner’s interest in the Property; or (c) any sale or transfer of the Property to a person or entity owning twenty percent (20%) or more of Owner. For the purposes of this Section 17, an entity shall be deemed to be under the “control of” or under the “common control of” Owner or Permitted Owner Transferees, if Owner and the Permitted Owner Transferee are substantially under common control; a “controlling interest” shall mean an interest in excess of fifty percent (50%) of the equity interests in such entity.

18. Environmental Matters.

18.1 Tenant’s Use of Hazardous Materials. Tenant shall not use or allow to be used on the Property, or bring onto or allow to be brought onto the Property, any Hazardous Materials except as reasonably required in connection with its Operations on the Property, and then only in material compliance with all Applicable Law governing the use, handling, or storage of Hazardous Materials.

18.2 Notice of Release or Investigation. If, during the Lease Term, Owner or Tenant becomes aware of (a) the actual or threatened release of any Hazardous Materials on, under or about the Property in quantities or concentrations that require notification to any governmental

authority pursuant to Applicable Law, or (b) any inquiry, investigation, proceeding or claim by any governmental authority or any other person regarding the presence of Hazardous Materials on, under or about the Property, the party becoming aware of such matter shall give the other party written notice of such release or investigation within five (5) business days after learning of it, and shall simultaneously furnish to the other party copies of any claims, notices of violation, reports or other writings prepared or received by such party that concern such release or investigation. The receipt or transmittal of any notice by either party under this Section shall not affect the parties' other obligations under this Section 18.

18.3 Tenant's Obligations Regarding Hazardous Materials. Tenant shall have the obligation to remove or remediate Hazardous Materials on the Property or Land brought onto the Property or Land by Tenant or any of Tenant's Parties. If Tenant Parties release or dispose of Hazardous Materials in, on, or about the Property or Land during the Lease Term in violation of Applicable Law, Tenant at its sole cost and expense shall report, investigate, remove or remediate such Hazardous Materials as required by Applicable Law or by a written directive or order from any applicable local, state or federal agency having jurisdiction. Tenant shall indemnify, defend, reimburse and hold Owner and its successors, assigns, agents, employees, representatives and lenders harmless from any and all Losses caused by the presence of Hazardous Materials which were placed in, on or about the Land by the Tenant Parties in connection with the release, removal or storage of any such Hazardous Materials by Tenant Parties. These obligations shall survive the termination or expiration of this Lease.

18.4 Owner's Obligations Regarding Hazardous Materials. Owner shall have no obligation to remove or remediate Hazardous Materials that exist on the Property except where an applicable governmental agency requires Owner to remove or remediate the same and the Hazardous Materials constitute or are the result of any one or more of the following: (a) the Hazardous Materials that exist on the Property are not the responsibility of Tenant pursuant to Sections 18.3 above; (b) the Hazardous Materials are placed in, on or about the Property by Owner, any of Owner's Parties, any prior owner of the Property, or any entity that used the Property prior to Owner taking ownership; (c) the Hazardous Materials are present in concentrations that do not require remediation as of the Effective Date, but the response action level changes such that investigation, remediation, and/or abatement are required by the applicable governmental authority for concentrations at such levels; (d) to the extent Hazardous Materials are placed in, on or about the Property by Owner after the expiration or termination of this Lease and after Tenant has vacated the Property; or (e) to the extent Hazardous Materials migrate on, under, or about the Property through no act, consequence, or result of Tenant's activities on the Property. In the event any of the foregoing occur during the Lease Term and Owner is expressly required by an applicable governmental authority to investigate, remediate, and/or abate the matter, Owner shall take all necessary action, at Owner's sole expense, to investigate, remediate, and/or abate such Hazardous Materials and in accordance with the standards required by the applicable governmental agency. Owner shall immediately notify Tenant of any such investigation, remediation, and/or abatement, and shall work with Tenant so as to minimize any effect on Tenant's development, construction or operation of the Project. Subject to the limitations in Section 19.3.22, Owner shall indemnify, defend, reimburse and hold Tenant and its successors, assigns, agents, employees, representatives and lenders harmless from any and all Losses caused by the presence of Hazardous Materials which were placed in, on or about the Property prior to the delivery thereof to Tenant or which are thereafter placed by Owner

or any of its employees, agents or contractors in, on or about the Property or otherwise migrate on, under, or about the Property through no act, consequence, or result of Tenant's activities on the Property, or incurred by Tenant in connection with the release, removal or storage of any such Hazardous Materials.

19. General Provisions.

19.1 Notices; Payments. The address of each party hereto for all notices required or permitted to be given hereunder shall be as provided in the Lease Summary, or such other address of which the other party has received notice.

19.1.1 Delivery Methods. All notices shall be in writing, and may be delivered by any of the following methods, with all delivery charges and/or postage pre-paid: personal delivery (including delivery by private courier services), reputable overnight courier service (e.g., Federal Express, UPS, DHL), or United States first class certified mail with return-receipt requested. Any notice personally delivered shall be deemed to have been validly and effectively given on the date of such delivery, unless such date shall not be a business day, in which case such delivery shall be deemed to have been validly and effectively given on the next succeeding business day. Any notice sent by reputable overnight courier or by United States first class certified mail shall be deemed to have been validly and effectively given on the date of the receipt for delivery thereof.

19.1.2 Change of Address. Owner or Tenant may change its address for purposes of this paragraph by giving written notice of such change to the other parties in the manner provided in this paragraph. It shall be the duty of Owner, Tenant and any Subtenant or Mortgagee to notify other parties of any change to their name or address. Until such time that a party delivers written notice of a name or address change, any written notice required to be provided to such party under the terms of this Lease shall be properly delivered if it sent to the last known name and address of such party.

19.1.3 Payment Methods. Payments shall be made to Owner, at Owner's election, either (i) by wire transfer to an account designated by Owner, or (ii) by check delivered to Owner's address as set forth in this Section 19.1, or such other address specified by Owner. Payments to Owner shall not be deemed made until delivered to Owner in accordance with the foregoing.

19.2 Estoppel Certificate. Tenant or Owner shall, at any time and upon not less than ten (10) days' prior written notice from the other, execute, acknowledge and deliver an estoppel certificate substantially in the form attached hereto as Exhibit D and including any additional customary provisions that the holder of a Mortgage may reasonably request. Any such statement may be conclusively relied upon by any Leasehold Mortgagee or any prospective purchaser or encumbrancer of the Property, the Leasehold Estate, and/or the Improvements. Each party acknowledges that the other party may from time to time request an estoppel certificate in connection with any financing, sale, or investment in connection with such party's interest in this Lease and the Project.

19.3 Miscellaneous Provisions.

19.3.1 Time is of the Essence. Time is of the essence with respect to the performance of every provision of this Lease.

19.3.2 Further Documents. Each party agrees to perform such further acts and execute such further documents as may be necessary or appropriate to carry out the expressed intents and purposes of this Lease. Without limiting the generality of the foregoing, Owner shall execute such maps, applications and other documents as may reasonably be requested by Tenant or any utility or governmental entity in connection with the Intended Use.

19.3.3 Severability Clause. If any term or provision of the Lease, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid or unenforceable shall not be affected thereby, and each term and provision of this Lease shall be valid and shall be enforced to the fullest extent permitted by law.

19.3.4 No Consequential Damages. The parties agree that it is the intent that neither party, nor its officers, members, directors, partners, shareholders, agents, employees, contractors or Affiliates, shall be liable to the other party or to its affiliates, officers, directors, shareholders, partners, agents, employees, successors or assigns, for claims for incidental, special, indirect, punitive or consequential damages of any nature connected with or resulting from performance or non-performance of this Lease, including claims in the nature of lost revenue, income or profits, losses, damages or liabilities under any financing, lending, construction or other contracts, agreements or arrangements to which either may be a party irrespective of whether such claims are based upon negligence, strict liability, contract, operation of law or otherwise.

19.3.5 Entire Agreement. This Lease contains all agreements of the parties with respect to the subject matter hereof, and the parties acknowledge and agree that the Option Agreement is superseded by this Lease. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified only by a writing signed by all parties.

19.3.6 Waiver. No waiver by Owner or Tenant of any provision hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision. A party's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of such party's consent to or approval of any subsequent act.

19.3.7 Holding Over. If Tenant remains in possession of the Property, or any part thereof, after the expiration of the Lease Term without the express written consent of Owner, such occupancy shall be deemed a tenancy from month to month and all terms and conditions hereof this Lease shall be applicable to such month-to-month tenancy.

19.3.8 Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive, but shall, whenever possible, be cumulative with all other remedies in law or equity.

19.3.9 Binding Effect. This Lease shall bind the parties, their personal representatives, successors and assigns. The burdens and the rights contained in this Lease shall run with and against the Property and shall be a charge and burden thereon for the duration of the Lease and shall be binding upon and against Owner and its successors, assigns, permittees, licensees, lessees, employees and agents.

19.3.10 Execution in Counterparts. This Lease may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall be deemed to be one and the same instrument. PDF or facsimile counterparts shall be deemed originals and shall be binding.

19.3.11 Resolution of Drafting Ambiguities. Each party hereto acknowledges that it was represented by counsel in connection with the preparation, execution and delivery of this Lease and that such party's counsel reviewed and participated in the revision of this Lease and all exhibits and schedules hereto and that any rule of construction under the laws of the State of New York to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of any of the provisions of this Lease.

19.3.12 Exhibits and Schedules. All exhibits and schedules attached to this Lease are incorporated herein by this reference as though set forth in full herein.

19.3.13 Captions. The headings to the Sections of this Lease have been inserted solely for convenience of reference and shall not modify, define or limit the express provisions of this Lease.

19.3.14 Memorandum. Neither Owner nor Tenant shall record this Lease in its entirety. Concurrently herewith, the parties hereto shall execute and cause to be recorded, at the expense of the Tenant, in the Official Records of the County, a Memorandum of this Lease, which shall be in the form attached hereto as Exhibit C (the "Memorandum"). Upon completion of construction of the Project, Tenant shall have the right to modify the legal description of the Property as necessary or convenient; provided, however, that in no event shall the legal description include property not owned by Owner. Owner agrees to enter into an amendment to this Lease and to the Memorandum of Lease to replace the current legal description with the updated legal description and Rent and other sums based hereunder based on the acreage of the Property shall be adjusted accordingly and the new amounts shall be set forth in the lease amendment. Upon the expiration or earlier termination of this Lease, Tenant agrees to execute and record a release or other termination acknowledgment of the Memorandum within thirty (30) days from the termination or expiration of this Agreement.

19.3.15 No Joint-Venture or Partnership. Nothing contained in this Lease shall be deemed or construed to create or constitute a partnership, joint venture, or other co-ownership by and between the parties as to the rights, duties and obligations of the parties

hereunder. The respective obligations of each party shall be construed as separate and independent obligations of each respective party, and shall not be deemed joint or several.

19.3.16 Governing Law. This Lease shall be construed and enforced in accordance with and governed by the internal laws (and not the conflicts law) of the State of New York.

19.3.17 Forum Selection; Consent to Jurisdiction. All disputes arising out of or in connection with this Lease shall be solely and exclusively resolved by a court of competent jurisdiction in the State of New York. The parties hereby consent to the jurisdiction of the courts of the State of New York and the United States District Courts of New York and waive any objections or rights as to *forum nonconveniens*, lack of personal jurisdiction or similar grounds with respect to any dispute relating to this Lease.

19.3.18 Waiver of Jury Trial. **EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS LEASE OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY).**

19.3.19 No Merger. If both Owner's and Tenant's estates in the Property or the Improvements or both become vested in the same owner, this Lease shall nevertheless not be destroyed by the application of the doctrine of merger except at the express election of such owner and the consent of each Leasehold Mortgagee with an interest in the Property at such time.

19.3.20 Attorneys' Fees. In the event of any action at law or in equity between the parties hereto to enforce or interpret this Lease (including matters related to bankruptcy and appellate proceedings), the non-prevailing party or parties to such litigation shall pay to the prevailing party or parties all costs and expenses, including reasonable attorneys' fees, incurred therein by such prevailing party or parties and, if such prevailing party or parties shall recover judgment in any such action or proceedings, such costs, expenses and attorneys' fees may be included in and as a part of such judgment. The prevailing party or parties shall be the party who is entitled to recover his costs of suit, whether or not the suit proceeds to final judgment. If no costs of suit are awarded, the court shall determine the prevailing party or parties.

19.3.21 Confidentiality. Owner shall maintain in the strictest confidence, for the sole benefit of Tenant, the terms of this Lease, and any information provided by Tenant to Owner in relation to the transaction contemplated hereby, including, without limitation, all information pertaining to the financial terms of or payments under this Lease, Tenant's site or product design, methods of operation, methods of construction, power production or availability of the Improvements, and the like, whether disclosed by Tenant or discovered by Owner, unless such information either (i) is in the public domain by reason of prior publication through no act or omission of Owner or its employees or agents; (ii) was already known to Owner at the time of disclosure and which Owner is free to use or disclose without breach of

any obligation to any person or entity; or (iii) compelled by legal process (provided Owner shall provide notice thereof to Tenant promptly after receipt of notice of such). Owner shall not use such information for its own benefit, publish or otherwise disclose it to others, or permit its use by others for their benefit or to the detriment of Tenant. Notwithstanding the foregoing, Owner may provide information as required or appropriate to attorneys, accountants, actual and potential investors, rating agencies, lenders, or third parties subject to confidential agreements or requirements who may be assisting Owner or with whom Owner may be negotiating in connection with the Property, Owner's financial or other planning, or as may be necessary to enforce this Lease. Furthermore, Owner recognizes that Tenant is engaged in a competitive industry and acknowledges that divulging confidential information relative to this Agreement may cause significant damages to Tenant, and Owner hereby acknowledges, consents and agrees that, in the event of any such breach, or the threat thereof, Tenant shall be entitled, in addition to any other legal remedies and damages available, to seek temporary and permanent injunctive relief (without the necessity of posting a bond) to restrain the violation or threatened violation of these confidentiality obligations by Owner.

19.3.22 Survival. The indemnification obligations of Sections 5.4, 5.8, 8, 18, and 19.3.23 of this Lease and the provisions of Sections 14 and 19.3.21 of this Lease shall survive the expiration or earlier termination of this Lease for a period of two (2) years. The provisions of Sections 19.3.4, 19.3.16, 19.3.17, 19.3.18, and 19.3.20 of this Lease shall survive the expiration or earlier termination of this Lease indefinitely.

19.3.23 Brokerage Fees. Each party agrees that if any person or entity makes a claim for brokerage commissions or finder's fees to the other party related to this Lease, and such claim is made by, through or on account of any acts or alleged acts of the indemnifying party or its representatives, the indemnifying party hereby agrees to protect, indemnify, defend and hold the indemnified party free and harmless from and against any and all loss, liability, cost, damage and expense (including reasonable attorneys' fees) in connection therewith.

19.3.24 Exhibits. The following Exhibits and Schedules are attached to this Lease:

List of Exhibits

Exhibit A	Legal Description of Land
Exhibit B	Description of Property
Exhibit C	Memorandum of Lease
Exhibit D	Form of Estoppel Certificate
Exhibit E	Permitted Encumbrances

List of Schedules

Schedule 1	Owner's Disclosures
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[Signature page follows]

IN WITNESS WHEREOF, Owner and Tenant have executed this Lease to be effective as of the Effective Date.

OWNER:

By 

Name: Teresa Campanaro

IN WITNESS WHEREOF, Owner and Tenant have executed this Lease to be effective as of the Effective Date.

TENANT:

BW Solar Holding Inc.,
a Delaware corporation

By: _____

Name: _____

Title: _____

EXHIBIT A

Legal Description of Land

County	Oneida
Municipality	City of Rome
Address	6821 Martin Street
Total Acreage/Size	42 33
SWIS	301389
Tax ID	259.001-0001-002



Exhibit A

EXHIBIT B

Legal Description of Property

[To be inserted by Tenant if the Option is exercised.]