

**OMNIBUS AMENDMENT TO PROJECT DOCUMENTS
NY DELAWARE V, LLC PROJECT**

THIS OMNIBUS AMENDMENT TO PROJECT DOCUMENTS is made as of the 14th day of December, 2020 (“Omnibus Amendment”), by and between the COUNTY OF SULLIVAN INDUSTRIAL DEVELOPMENT AGENCY, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, having its principal offices at 548 Broadway, Monticello, New York 12701 (“Agency”) and NY DELAWARE V, LLC, a New York limited liability company, having its principal offices located at 140 East 45th Street, Suite #32B-1, New York, New York 10017 (“Company”).

WHEREAS, the Agency was created by Chapter 560 of the Laws of 1970 of the State of New York, as amended, pursuant to Title I of Article 18-A of the General Municipal Law of the State of New York (collectively, the “Act”) as a body corporate and politic and as a public benefit corporation of the State of New York (“State”); and

WHEREAS, the Project (as hereinafter defined) was originally designed to be constructed on a portion of 76.56± acres of real estate located at 93 Villa Roma Road, Town of Delaware (“Town”), County of Sullivan (“County”), State and identified on the Town tax map, at the time of the Application (as herein defined) as Section 21, Block 1, Lot 28 (“Land”); and

WHEREAS, on or about March 7, 2019, the Company presented an application (“Application”) to the Agency, requesting the Agency’s assistance with respect to a certain project consisting of the construction of an approximately 2MW solar photovoltaic electricity generating facility to be interconnected to the New York State Electric and Gas (“NYSEG”) electrical grid (“Project”). The Project is comprised of (a) racking to mount the solar modules; (b) solar modules; (c) inverters and transformers mounted on a concrete inverter pad and (d) assorted electrical components and wiring (“Solar Array”); and

WHEREAS, on or about June 10, 2019, the Agency and the Company entered into the following documents:

- (i) Agent and Project Agreement (“Agent Agreement”);
- (ii) Bill of Sale to Agency (“Bill of Sale to Agency”);
- (iii) Bill of Sale to Company (“Bill of Sale to Company” together with Bill of Sale to Agency, “Bills of Sale”);
- (iv) Lease to Agency and memorandum thereto (collectively, “IDA Lease Agreement”);
- (v) Leaseback to Company and memorandum thereto (collectively, “IDA Leaseback Agreement”); and
- (vi) Payment in Lieu of Tax Agreement (“PILOT Agreement”).

The documents listed in (i) through (vi) above are collectively referred to as the “IDA Project Documents”; and

WHEREAS, the Land was and is owned by Delaware River Solar Real Estate, LLC (“DRSRE”) and was leased to the Company pursuant to a Lease Agreement, dated as of June 10, 2019 (“Ground Lease”); and

WHEREAS, the Ground Lease was amended by that certain First Amendment to Ground Lease Agreement entered into as of September 11, 2019 (“First Amendment to Ground Lease”); and

WHEREAS, contemporaneously with execution of the First Amendment to Ground Lease, DRSRE and the Company executed a Memorandum of Lease, on September 11, 2019, which was recorded in the Office of the Clerk of Sullivan County on September 17, 2019 as Instrument No. 2019-6538; and

WHEREAS, the original Ground Lease description was based upon a subdivision sketch plan (“Sketch Plan”) containing preliminary boundary locations; and

WHEREAS, a subdivision application was submitted by Packer Associates, Inc. to the Town of Delaware Planning Board which resulted in the approval of a Subdivision Map entitled “Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC”, dated July 9, 2019, last revised on August 21, 2019, and following approval, was recorded in the Sullivan County Clerk’s Office on August 27, 2019 in Book 15 at Page 185 and as Instrument No. 2019-57, pursuant to which the size of the Land varied slightly from the acreage computed based on the Sketch Plan; and

WHEREAS, to evidence the slight acreage variation, DRSRE and the Company entered into a Second Amendment to Ground Lease Agreement, dated as of February 28, 2020 (“Second Amendment to Ground Lease”), which further amended the Ground Lease and pursuant to which DRSRE now leases to the Company the 14.00 acre parcel more particularly described on “Schedule A” attached hereto and made a part hereof; and

WHEREAS, contemporaneously with execution of the Second Amendment to Ground Lease, DRSRE and the Company executed an Amended Memorandum of Lease, on February 28, 2020, which was recorded in the Office of the Clerk of Sullivan County on March 6, 2020 as Instrument No. 2020-1763; and

WHEREAS, the Agency and the Company wish to amend the IDA Project Documents to replace the description based on the Sketch Plan of the Land with the description of the lot as approved by the Planning Board and as described in the Second Amendment to Ground Lease; and

WHEREAS, the amount of the sales tax exemption listed in Paragraph 5(e) of the Agent Agreement was incorrectly noted.

NOW THEREFORE, in consideration of the covenants herein contained and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged it is mutually agreed as follows:

1. Amendment of IDA Project Documents. The IDA Project Documents are hereby amended to delete the Sketch Plan legal description attached to the Bills of Sale, IDA Lease Agreement and IDA Leaseback Agreement and to incorporate in its place and stead the description of the 14.00-acre parcel attached hereto as Schedule A.

2. Project Description. The project description in the IDA Project Documents is hereby deleted and the following inserted in its place and stead:

“construction of an approximately 2MW solar photovoltaic electricity generating facility to be interconnected to the New York State Electric and Gas (“NYSEG”) electrical grid (“Project”). The Project is comprised of (a) racking to mount the solar modules; (b) solar modules; (c) inverters and transformers mounted on a concrete inverter pad; and (d) assorted electrical components and wiring (“Solar Array”). The Solar Array has been constructed on the 14.00 acres of real estate located at Villa Roma Road, Town of Delaware (“Town”), County of Sullivan (“County”), State and identified on the Town tax map as Section 21, Block 1, Lot 28.5 (“Land”).”

3. Recording Memos. Contemporaneously herewith, the Company and the Agency shall execute and thereafter record in the Office of the Sullivan County Clerk a First Amended Memorandum of Lease to Agency and a First Amended Memorandum of Leaseback to Company to set forth the legal description of the Land as set forth on Schedule A.

4. Amendment of Agent Agreement. Paragraph 5(e) of the Agent Agreement is hereby deleted in its entirety and the following inserted in its place and stead:

“(e) The Company further (i) covenants and agrees that the purchase of goods and services relating to the Project and subject to New York State and local sales and use taxes are estimated in the amount up to \$875,000, and, therefore, the value of the sales and use tax exemption benefits authorized and approved by the Agency cannot exceed \$70,000, (ii) confirms that the mortgage recording tax exemption amount shall not exceed \$30,000.”

5. Integration. Except as herein amended, all other terms and conditions of the IDA Project Documents shall remain in full force and effect

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IN WITNESS WHEREOF, the parties hereto have executed this Omnibus Amendment effective as of the ____ day of December, 2020.

COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY



By: Edward T. Sykes, Chief Executive Officer

NY DELAWARE V, LLC



By: Peter Dolgos, Senior Vice President

EXHIBIT A

ALL of that piece or parcel of land situate in the Town of Delaware, County of Sullivan and State of New York, being more particularly known and designated as Lot 3, shown on a map entitled "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC", dated July 9, 2019, revised August 21, 2019, and filed in the Sullivan County Clerk's Office on August 27, 2019 as Map Number 15-185-A-&-B, bounded and described as follows:

BEGINNING at a point in the common line of Divisions 77 and 59 in Great Lot 1 of the Hardenburgh Patent, which Division line is the easterly line of land of Thomas A. and Jennifer Diehl (Instrument No. 2013-388), said place of beginning is further described as being North 07 degrees 23 minutes 48 seconds East 91.79 feet, as measured along said Division line and easterly line of said land of Thomas A. and Jennifer Diehl, from an iron rod found at the common corner of said land of Thomas A. and Jennifer Diehl and "PARCEL I" in a deed to Peter A. Diehl, Sr. and Alice V. Diehl, as Trustees of the Peter A. Diehl, Sr. & Alice V. Diehl Loving Trust (Instrument Number 2019-2028), and said place of beginning is still further described as being at a common corner of Lot 4 and the hereby described Lot 3, as shown on the aforementioned "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC".

- 1) Thence from said place of beginning, North 07 degrees 23 minutes 48 seconds East 212.11 feet, along said line of Divisions 77 and 59, which is the easterly of said land of Thomas A. and Jennifer Diehl, to a point at a common corner of Lot 2 and the hereby described Lot 3, as shown on the aforementioned "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC".
- 2) Thence along the line of said Lot 2, as shown on said "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC", for the following eight (8) courses and distances:
 - a) South 76 degrees 00 minutes 47 seconds East 1167.11 feet
 - b) North 13 degrees 51 minutes 01 seconds East 131.68 feet
 - c) North 53 degrees 43 minutes 57 seconds East 343.36 feet
 - d) North 13 degrees 58 minutes 57 seconds East 170.83 feet
 - e) South 76 degrees 00 minutes 05 seconds East 160.35 feet
 - f) North 05 degrees 57 minutes 35 seconds East 86.76 feet
 - g) South 81 degrees 15 minutes 32 seconds East 87.09 feet
 - h) North 77 degrees 04 minutes 14 seconds East 19.80 feet, to a point in the westerly line of an 18.82 acre parcel previously retained by Michael R. and Tracy Puerschner.
- 3) Thence along the line of said 18.82 acre parcel previously retained by Michael R. and Tracy Puerschner, for the following two (2) courses and distances:
 - a) South 21 degrees 14 minutes 32 seconds West 110.08 feet
 - b) South 81 degrees 43 minutes 50 seconds East 23.27 feet, to a 1/2" rebar set at the northwesterly corner of land of David Berg, Jack Berg, Daniel Berg, and Richard Berg (Liber 2214, Page 426).
- 4) Thence South 05 degrees 57 minutes 35 seconds West 597.65 feet, along the line of said land of David Berg et al, as generally evidenced by a stone row, to a 1/2" rebar set in a stone wall.
- 5) Thence North 81 degrees 11 minutes 26 seconds West 290.92 feet, continuing along the line of said land of David Berg et al, as evidenced by a stonewall, to a 1/2" rebar set in a stonewall corner.
- 6) Thence South 05 degrees 56 minutes 48 seconds West 275.64 feet, continuing along the line of said land of David Berg et al, as evidenced by a stonewall to a point at the northeasterly corner of Lot 4, as

shown on the aforementioned "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC".

- 7) Thence along the line of said Lot 4, for the following three (3) courses and distances:
- a) North 76 degrees 00 minutes 00 seconds West 500.58 feet
 - b) North 14 degrees 00 minutes 00 seconds East 117.48 feet
 - c) North 76 degrees 00 minutes 00 seconds West 955.58 feet, to the point or place of beginning.

CONTAINING 14.00 acres of land.

TOGETHER WITH AND SUBJECT to the rights of others in and to that certain right of way fifty (50) feet in width as shown on the aforementioned "Minor Subdivision Survey Map Prepared for Delaware River Solar Real Estate, LLC", dated July 9, 2019, revised August 21, 2019, and filed in the Sullivan County Clerk's Office on August 27, 2019 as Map Number 15-185 A & B.