

OMNIBUS AMENDMENT TO PROJECT DOCUMENTS
NY DELAWARE I, LLC PROJECT

THIS OMNIBUS AMENDMENT TO PROJECT DOCUMENTS is made as of the 1st day of June, 2021 ("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 I, 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 20.46± acres of real estate which was a portion of a 200.74 acre parcel located along Lahm 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 2, Block 1, Lot 9.1 ("Original Land"); and

WHEREAS, on or about January 9, 2017, 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 April 1, 2017, the Agency and the Company entered into the following documents:

- (i) Agent and Project Agreement ("Agent Agreement"); and
- (ii) Environmental Compliance and Indemnification Agreement ("ECIA"); and

WHEREAS, on or about November 1, 2017, the Agency and the Company entered into the following documents:

- (iii) Bill of Sale to Agency ("Bill of Sale to Agency");
- (iv) Bill of Sale to Company ("Bill of Sale to Company" together with Bill of Sale to Agency, "Bills of Sale");
- (v) Lease to Agency and memorandum thereto (collectively, "Lease Agreement");
- (vi) Leaseback to Company and memorandum thereto (collectively, "Leaseback Agreement"); and

- (vii) Payment in Lieu of Tax Agreement (“2017 PILOT Agreement”), which was amended by a First Amendment to Payment in Lieu of Taxation Agreement made as of the 1st day of November, 2020 (“First Amended PILOT” and together with the 2017 PILOT Agreement, the “PILOT Agreement”); and

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

WHEREAS, the Original Land was and is owned by Bauer Lahm Land, LLC (“BLL”) and was originally leased to the Company pursuant to a Lease Agreement dated as of January 4, 2017 (“January 2017 Lease”); and

WHEREAS, the January 2017 Lease was replaced following subdivision of the Original Land by that certain Lease Agreement dated November 27, 2017 (“November 2017 Lease”) from BLL to the Company, evidenced of record by that certain Memorandum of Lease (“2017 Memo of Lease”) dated November 30, 2017 which was recorded in the Office of the Clerk of Sullivan County on December 5, 2017 as Instrument No. 2017-9201; and

WHEREAS, BLL and the Company entered into a First Amendment to Lease Agreement dated January 3, 2019 (“First Amendment”) and that certain Second Amendment to Lease Agreement dated February 8, 2021 (“Second Amendment”), which modifies the description of the leased area, to include a portion of the Original Land together with an additional 6.91 acre parcel of land lying between the Project and Lahm Road, which aggregates to a 27.37 acre parcel of land as more particularly described on Schedule A; and

WHEREAS, the Agency and the Company wish to amend the Project Documents to replace the description of the Original Land in the Project Documents with the land described on Schedule A.

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 Project Documents. The Project Documents are hereby amended to delete the legal description in the Bills of Sale, Lease Agreement and Leaseback Agreement and to incorporate the description of the 27.37-acre parcel attached hereto as Schedule A in its place and stead.

2. Project Description. The project description in the 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 27.37 acres of real estate located along Lahm Road, Town of Delaware ("Town"), County of Sullivan ("County"), State and identified on the Town tax map as Section 2, Block 1, Lot 9.4 ("Land")."

3. Recording Memos. Contemporaneously herewith, the Company and the Agency shall execute and thereafter record in the Office of the Sullivan County Clerk an Amended and Restated Memorandum of Lease to Agency and an Amended and Restated Memorandum of Leaseback to Company to update the legal description.

4. Integration. Except as herein amended, all other terms and conditions of the 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 1st day of June, 2021.

COUNTY OF SULLIVAN INDUSTRIAL
DEVELOPMENT AGENCY


By: Jennifer Flad, Executive Director

NY DELAWARE I, LLC


By: Richard Winter, Chief Executive Officer

27.37 ACRE COMBINED BAER PROPERTY ARRAY PARCEL AFTER ADDITION

ALL of that piece or parcel of land situate in the Town of Delaware, County of Sullivan and State of New York, being part of Lot 25, together with part of Lot 23 in Division 57 of Great Lot 1 of the Hardenburgh Patent, more particularly being all of Lot 1 as shown on a map entitled "Subdivision Survey Map Prepared For Bauer Lahm Land, LLC", dated February 16, 2018, last revised March 21, 2018, and filed in the Sullivan County Clerk's Office on May 6, 2019 as Map No. 15-155, together with part of Lot 1 as shown on a map entitled "Subdivision Survey Map Prepared For James E. Hough & Bauer Lahm Land, LLC", dated February 21, 2018, last revised March 21, 2018, and filed in the Sullivan County Clerk's Office on May 6, 2019 as Map No. 15-156, bounded and described as follows:

BEGINNING at a point in the centerline of traveled way of Lahm Road (Town Highway 66), at its intersection with the northerly line of land described in a deed to Scott R. Herbert and Mark L. Herbert (Deed Instrument No. 2014-242), said place of beginning is further described as being North 77 degrees 56 minutes 42 seconds West 25.06, as measured along said northerly line of said land of Scott R. Herbert and Mark L. Herbert, from a ½" rebar found on the easterly side of said road, and South 77 degrees 56 minutes 38 seconds East 25.06 feet, as measured along said northerly line of land of Herbert, from a ½" rebar found on the westerly side of said road.

- 1) Thence from said place of beginning North 77 degrees 56 minutes 38 seconds West 286.98 feet, along the northerly line of said land of Scott R. Herbert and Mark L. Herbert (Deed Instrument Number 2014-242), which is along the northerly line of Lot 22 in the aforementioned 57 of Great Lot 1, to a ½" rebar found at the common corner of Lots 22, 24, 23 and 25 in said Division 57, which rebar is further described as being at the southeasterly corner of land described in a previous deed to Bauer Lahm Land, LLC (see Deed Instrument No. 2016-890 and Lot 1 on Filed Map No. 15-155).
- 2) Thence North 81 degrees 39 minutes 04 seconds West 95.84 feet, continuing along the northerly line of said land of Scott R. Herbert and Mark L. Herbert, to a ½" rebar set at the intersection of two stone rows.
- 3) Thence North 82 degrees 00 minutes 04 seconds West, for a distance of 256.47 feet, through land described in a deed from Naida M. Baer to Bauer Lahm Land, LLC (Deed Instrument No. 2016-890), to a ½" rebar set.
- 4) Thence continuing through said land described in said deed from Naida M. Baer to Bauer Lahm Land, LLC (Instrument No. 2016-890), for the following seven (7) courses and distances:

- a) North 45 degrees 15 minutes 26 seconds West 390.12 feet, to a ½" rebar set
 - b) North 07 degrees 47 minutes 13 seconds East 191.59 feet, to a ½" rebar set
 - c) South 89 degrees 57 minutes 31 seconds West 388.73 feet, to a ½" rebar set
 - d) North 08 degrees 01 minutes 37 seconds East 651.68 feet, to a ½" rebar set
 - e) North 89 degrees 58 minutes 40 seconds East 762.23 feet, to a ½" rebar set
 - f) South 08 degrees 00 minutes 16 seconds West 232.50 feet, to a ½" rebar set
 - g) North 89 degrees 53 minutes 51 seconds East 294.57 feet, to a ½" rebar set in the common line of the aforementioned Lots 23 and 25 in said Division 57 of Great Lot 1, which is the common line of land described in a deed to James E. Hough (Liber 1957, Page 312) in said Lot 23 and land described in a deed to Bauer Lahm Land, LLC (Deed Instrument Number 2016-890) in said Lot 25.
- 5) Thence North 07 degrees 45 minutes 53 seconds East 309.85 feet, along said common line of Lots 23 and 25 which is the common line of land described in said deed to James E. Hough (Liber 1957, Page 312) in said Lot 23 and land described in said deed to Bauer Lahm Land, LLC (Deed Instrument Number 2016-890) in said Lot 25, to a ½" rebar set at southwesterly corner of Lot 2 (remaining land of James Hough) as shown on the aforementioned map entitled "Subdivision Survey Map Prepared For James E. Hough & Bauer Lahm Land, LLC" (see Deed Liber 1957, Page 312 and Filed Map No. 15-156).
- 6) Thence South 54 degrees 07 minutes 53 seconds East 184.93 feet, along the line of said Lot 2 on filed map 15-156, to a point in the centerline of traveled way of Lahm Road (Town Highway 66), which point in said centerline is further described as being a South 54 degrees 07 minutes 53 seconds East 24.03 feet, from a ½" rebar set on the westerly side of said road and North 85 degrees 36 minutes 57 seconds West 31.94 feet, from a ½" rebar set on the easterly side of said road.
- 7) Thence along said centerline of traveled way of Lahm Road (Town Highway 66), for the following fifteen (15) courses and distances:
- a) South 33 degrees 27 minutes 39 seconds West 8.40 feet
 - b) South 29 degrees 44 minutes 18 seconds West 49.48 feet
 - c) South 25 degrees 27 minutes 49 seconds West 10.61 feet
 - d) South 04 degrees 06 minutes 18 seconds West 17.80 feet
 - e) South 07 degrees 29 minutes 39 seconds East 65.65 feet
 - f) South 14 degrees 07 minutes 22 seconds East 122.23 feet
 - g) South 06 degrees 54 minutes 28 seconds East 118.37 feet
 - h) South 01 degrees 22 minutes 51 seconds East 114.53 feet
 - i) South 02 degrees 53 minutes 12 seconds East 225.33 feet
 - j) South 02 degrees 00 minutes 48 seconds West 88.26 feet
 - k) South 04 degrees 27 minutes 43 seconds West 89.84 feet
 - l) South 04 degrees 34 minutes 30 seconds West 64.14 feet

- m) South 10 degrees 09 minutes 15 seconds West 132.84 feet
- n) South 17 degrees 28 minutes 22 seconds West 82.26 feet
- o) South 17 degrees 44 minutes 24 seconds West 20.33 feet, to the point or place of beginning.

CONTAINING 27.37 acres of land, as surveyed by Gary Packer, P. L. S.

Being part of the land conveyed by James E. Hough to Bauer Lahm Land, LLC, by deed dated January 24, 2019 and recorded in the Sullivan County Clerk's Office on February 22, 2019 as Deed Instrument Number 2019-1235, together with part of the land conveyed by Naida M. Baer to Bauer Lahm Land, LLC, by deed dated December 22, 2015 and recorded in the Sullivan County Clerk's Office on February 5, 2016 as Deed Instrument Number 2016-890.

EXCEPTING all of that portion of the above described parcel which lies within the bounds of public highways.

SUBJECT to any easements of record to public utilities.