

**PLANNING & ZONING
Town of Schodack
265 Schuurman Road
Castleton, New York 12033**

August 9, 2021

Planning Board

*Denise Mayrer,
Chairman
Andrew Aubin
Lawrence D'Angelo
Wayne Johnson
John LaVoie
Stephanie Leonard
James Shaughnessy
Craig Crist, Esq.*

Supervisor David Harris
Schodack Town Board Members
Schodack Town Hall
265 Schuurman Road
Castleton, NY 12033

Re: Van Hoesen Station, LLC
1735 Richwood Drive
Town of Schodack
SEQR Lead Agency

Zoning Board of Appeals Supervisor and Town Board,

*David Calarco,
Chairman
Anthony Maier
Lou Spada
Robert Loveridge
Ed Brewer*

Enclosed is a full Environmental Assessment Form for the above project and copy of the concept plan is enclosed

This is a Type 1 Action. The Schodack Planning Board wishes to undertake a coordinated review.

Craig Crist, Esq.

Schodack Planning Board desires to declare itself as lead agency at a future meeting. Please indicate if you object or concur at your earliest convenience. In addition, we look forward to your comments.

Thank you.
Nadine Fuda, Director of Planning and Zoning

cc: Richard Laberge, P.E., Planning Board Engineer
Craig Crist Esq., Planning Board Attorney
Morgan Ruthman
Lansing Engineering

RECEIVED

JUN 14 2021 SITE PLAN / SPECIAL PERMIT APPLICATION

TOWN OF SCHODACK Town of Schodack- Planning Board
265 Schuurman Road, Castleton, NY 12033
PLANNING & ZONING Phone: 518-477-7938; Fax: 518-477-7983; Nadine.fuda@schodack.org

FILE # 2021-24

CONCEPT MEETING: Monday June 21, 21 7pm

APPLICATION RECEIVED ON 6/14/21

LOCATION OF PROPERTY 1735 Richwood Drive, Castleton-on-Hudson, NY 12033

TAX MAP # 189-10-36 ZONE PD-3 ACRES 47.80 ROAD FRONTAGE (ft.) 566 (R1.9)

ENG/SURVEY FIRM Lansing Engineering TELEPHONE (518) 899-5243 Email ysl@lansingengineering.com

EXISTING USE(S) Vacant

INTENDED USE(S) Planned Development District consisting of 272 apartment units (34 8-unit buildings), 5,000 SF clubhouse building, 1,800 SF maintenance building, pool, tennis courts, trail system, & tenant storage units

WILL DEVELOPMENT BE PHASED? YES X NO IF YES, ATTACH LETTER OF EXPLANATION.

WILL YOU BE SEEKING A SITE DEVELOPMENT PERMIT BEFORE FINAL APPROVAL? YES X NO

WHEN PRELIMINARY APPROVAL IS GRANTED, THE BUILDING INSPECTOR WILL BE NOTIFIED. A SITE DEVELOPMENT PERMIT WILL BE ISSUED BY THE BUILDING INSPECTOR WHEN ALL PAPERWORK IS IN ORDER.

** IS THIS PROPERTY IN AN AGRICULTURAL DISTRICT CONTAINING A FARM OPERATION? YES NO X

** ARE THE BOUNDARIES OF THIS PARCEL WITHIN 500 FEET OF A FARM OPERATION LOCATED IN AN AGRICULTURAL DISTRICT? YES NO X IF YOU ANSWERED YES TO EITHER OF THE ** QUESTIONS, ADDITIONAL INFORMATION MAY BE REQUIRED.

ATTACH: EAF, Application fee, Survey/Site Plan Maps (min. 10), appropriate fees, letter of intent, must be submitted 10 days before initial review. Your Email Phone Numbers must be on this form

Application is Hereby Made to the Planning Office. The Applicant or Owner agrees to comply with all applicable laws, Ordinances, Regulations of the Town of Schodack and New York State for approval of the application.

WHO WILL BE REPRESENTING YOUR APPLICATION AT THE PLANNING BOARD MEETINGS? Morgan Ruthman, Yates Scott Lansing

Date 6/14/2021 Morgan Ruthman

Signature of Applicant

MAILING ADDRESS 1 Juniper Drive, Delmar, NY 12054

TELEPHONE# (518) 475-9088 OTHER# Email mruthman@thespinneygroup.com

Date 6/14/2021 Van Hoesen Station, LLC

Signature of Property Owner

MAILING ADDRESS 1 Juniper Drive, Delmar, NY 12054

TELEPHONE# (518) 475-9088 OTHER# Email mruthman@thespinneygroup.com

Nadine Fuda, Director / Denise Mayrer -Chairperson / Craig Crist, Attorney / Richard Laberge, P.E. Wayne Johnson / John LaVole /Stephanie Leonard / Lawrence D Angelo /Andrew Aubin / James D. Shaughnessy/

2/25/21

**Full Environmental Assessment Form
Part 1 - Project and Setting**

RECEIVED

JUL 29 2021

TOWN OF SCHODACK
PLANNING & ZONING

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: Van Hoesen Station Planned Development District		
Project Location (describe, and attach a general location map): 1735 Richwood Drive, Castleton-on-Hudson, NY 12033, northwest corner of the intersection of Richwood Drive and NYS Route 9		
Brief Description of Proposed Action (include purpose or need): The project proposes to rezone one existing parcel currently zoned as PD-3 to a Planned Development District. The existing parcel is +/-49.80 acres and is currently wooded and vacant. Upon rezoning of the parcel, the proposed development will include 192 apartment rental units (24 8-unit buildings), 70 townhouse units, a +/-5,000 SF clubhouse building, +/-1,800 SF maintenance building, outdoor pool, patio area with fire pit, tennis courts, putting greens, an internal trail system, dog park, community gardens, 40 10'x15' storage units for tenants, and active/passive recreation areas. The project will be serviced by extensions of existing public water and sanitary sewer mains. Stormwater is proposed to be mitigated on site. The proposed internal road network and parking areas will be owned and maintained by the applicant.		
Name of Applicant/Sponsor: Van Hoesen Station, LLC	Telephone: (518) 475-9088	E-Mail: mruthman@thespinneygroup.com
Address: 1 Juniper Drive		
City/PO: Delmar	State: NY	Zip Code: 12054
Project Contact (if not same as sponsor; give name and title/role): Morgan Ruthman	Telephone: (518) 475-9088	E-Mail: mruthman@thespinneygroup.com
Address: 1 Juniper Drive		
City/PO: Delmar	State: NY	Zip Code: 12054
Property Owner (if not same as sponsor): Same	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 Council, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Planned Development District Rezoning	6/14/21
b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Site Plan Approval, SEQR	TBD
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	Town: Water/Sewer/Highway/Fire/Police Departments	TBD
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Rensselaer County Economic Development & Planning: 239-M Referral, Site Plan Review	TBD
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	NYSDEC: SPDES, Sewer Extension; NYSDOH: Water Extension	TBD
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
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 checked="" type="checkbox"/> Yes <input 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? Yes No

- 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? Yes No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? Yes 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?) Yes No

If Yes, identify the plan(s):

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? Yes 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?
PD-3 - Planned Development

b. Is the use permitted or allowed by a special or conditional use permit? (Planned Development District with apartments) 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? Planned Development District with Apartment Uses

C.4. Existing community services.

a. In what school district is the project site located? East Greenbush Central School District

b. What police or other public protection forces serve the project site?
Town of Schodack Police Department, Rensselaer County Sheriff's Office, NYS Police

c. Which fire protection and emergency medical services serve the project site?
Schodack Valley Fire Company, Castleton Volunteer Ambulance Squad, Nassau Ambulance

d. What parks serve the project site?
Schodack Town Park

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)? 272 Apartment Rental Units, Community Center Building, active/passive recreation areas

b. a. Total acreage of the site of the proposed action? +/- 49.80 acres
b. Total acreage to be physically disturbed? +/- 26.13 acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? +/- 49.80 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: _____ months
ii. If Yes:
• Total number of phases anticipated 3
• Anticipated commencement date of phase 1 (including demolition) 3 month 2022 year
• Anticipated completion date of final phase 10 month 2025 year
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

Construction will begin at the eastern portion of the parcel, then proceeding to the northern and western portions of the site. The timing of the phases will be dictated by market demand.

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

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	72
At completion of all phases	_____	_____	_____	262

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

i. Total number of structures 4

ii. Dimensions (in feet) of largest proposed structure: <35' height; 100' width; and 53' length

iii. Approximate extent of building space to be heated or cooled: 6,800 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: Stormwater Management Area

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

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

iv. Approximate size of the proposed impoundment. Volume: 4.4 million gallons; surface area: 2.40 acres

v. Dimensions of the proposed dam or impounding structure: 6' height; 600' length

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

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): _____

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: _____ 65,900 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: Town of Schodack Consolidated Water District 101
- 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: _____
Water will be extended from the existing main at the intersection of Richwood Drive and US Route 9 to the project parcel.
- Source(s) of supply for the district: Town Well Field

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: _____ 65,900 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): _____
Typical residential sanitary wastewater

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

- Name of wastewater treatment plant to be used: East Greenbush Wastewater Treatment Plant
- Name of district: Town of Schodack Sewer District #6
- 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: _____

Sanitary sewer main will be extended to the project parcel from the existing sanitary sewer main on the east side of US Route 9, northeast of the project parcel.

- 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 12.60 acres (impervious surface)

_____ Square feet or 49.80 acres (parcel size)

- ii. Describe types of new point sources. Stormwater runoff from roofs, parking areas, and roads

- 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)?

Stormwater will be collected and treated in on-site stormwater management area. Mitigated stormwater runoff will be discharged to on-site wetlands.

- If to surface waters, identify receiving water bodies or wetlands: _____
On-Site, unnamed federal wetland

- 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)

Maintenance trucks, delivery trucks

- ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

Generators, general construction equipment

- iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

Potentially from backup generators

- 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 Hydrofluorocarbons (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 0 Proposed 555 Net increase/decrease +555

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:
New privately-owned and maintained road network will provide access to the development from Richwood Drive.

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:		ii. During Operations:	
• Monday - Friday:	<u>7am-6pm</u>	• Monday - Friday:	<u>Typical residential use hours</u>
• Saturday:	<u>7am-6pm</u>	• Saturday:	<u>Typical residential use hours</u>
• Sunday:	<u>N/A</u>	• Sunday:	<u>Typical residential use hours</u>
• Holidays:	<u>N/A</u>	• Holidays:	<u>Typical residential use hours</u>

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:
Typical noise associated with heavy and light construction equipment during the indicated hours of construction. Typical noise levels associated with a multi-family residential development are anticipated during operation.

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen? Yes No
 Describe: Site clearing and grading will remove vegetation and trees that act as a natural noise barrier.

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:
Typical lighting features associated with a multi-family residential development are anticipated, including downward-facing and shielded pole mounted light fixtures, wall sconces, and post lamps.

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? Yes No
 Describe: Site clearing and grading will remove vegetation and trees that act as a natural light barrier.

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: _____ tons per _____ (unit of time)
- Operation: _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: _____
- Operation: _____

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: _____
- Operation: _____

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): Distribution Center

ii. If mix of uses, generally describe:

The project is located near existing residential and commercial uses, and is in the vicinity of existing and proposed warehouse/distribution centers.

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	0	12.60	+12.60
• Forested	47.24	20.62	-26.62
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	0	0	0
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	1.93	1.93	0
• Wetlands (freshwater or tidal)	0.63	0.63	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Active/passive recreation, lawn, and greenspace areas</u>	0	14.02	+14.02

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): _____

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____

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? _____ 5.5 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:

Hoosic gravelly sandy loam	70.4 %
Nassau-Manlius complex	19.4 %
Castile gravelly silt loam	7.2 %

d. What is the average depth to the water table on the project site? Average: _____ >6 feet

e. Drainage status of project site soils: Well Drained: _____ 88.8 % of site
 Moderately Well Drained: _____ 7.2 % of site
 Poorly Drained _____ 4 % of site

f. Approximate proportion of proposed action site with slopes: 0-10%: _____ 54.8 % of site
 10-15%: _____ 34.7 % of site
 15% or greater: _____ 10.5 % 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 863-619, 863-618 Classification C
- Lakes or Ponds: Name Unnamed Pond Classification _____
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Approximate Size _____
- 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: _____

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

m. Identify the predominant wildlife species that occupy or use the project site:
 Typical species indigenous to southern Rensselaer County. _____

n. Does the project site contain a designated significant natural community? Yes No
 If Yes:

- i. Describe the habitat/community (composition, function, and basis for designation): _____
- ii. Source(s) of description or evaluation: _____
- iii. Extent of community/habitat:
 - Currently: _____ acres
 - Following completion of project as proposed: _____ acres
 - Gain or loss (indicate + or -): _____ acres

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? Yes No
 If Yes:

i. Species and listing (endangered or threatened): _____

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? Yes No
 If Yes:

i. Species and listing: _____

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? Yes No
 If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

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? Yes No
 If Yes, provide county plus district name/number: _____

b. Are agricultural lands consisting of highly productive soils present? Yes No
 i. If Yes: acreage(s) on project site: _____
 ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? Yes No
 If Yes:
 i. Nature of the natural landmark: Biological Community Geological Feature
 ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? Yes No
 If Yes:
 i. CEA name: _____
 ii. Basis for designation: _____
 iii. Designating agency and date: _____

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? Yes No

If Yes:

i. Nature of historic/archaeological resource: Archaeological Site Historic Building or District

ii. Name: _____

iii. Brief description of attributes on which listing is based: _____

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? Yes No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? Yes No

If Yes:

i. Describe possible resource(s): _____

ii. 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? Yes No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. 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? Yes No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? Yes 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 Yates Scott Lansing, P.E. Date 07/28/21

Signature  Title Agent for Applicant

EAF Mapper Summary Report

Friday, June 25, 2021 3:48 PM

Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

Garmin, USGS, Intermap, INCREMENTP, IIR, Can, Esri, Japan, METI, Esri, China (Hong Kong), Esri, Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
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]	No
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]	863-619, 863-618
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]	No
E.2.i. [Floodway]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.j. [100 Year Floodplain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.

E.2.k. [1000 Year Flooding]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
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]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

1-UNIT BUILDINGS
 DWG
 LINES

0 @ 10'x15' EA)

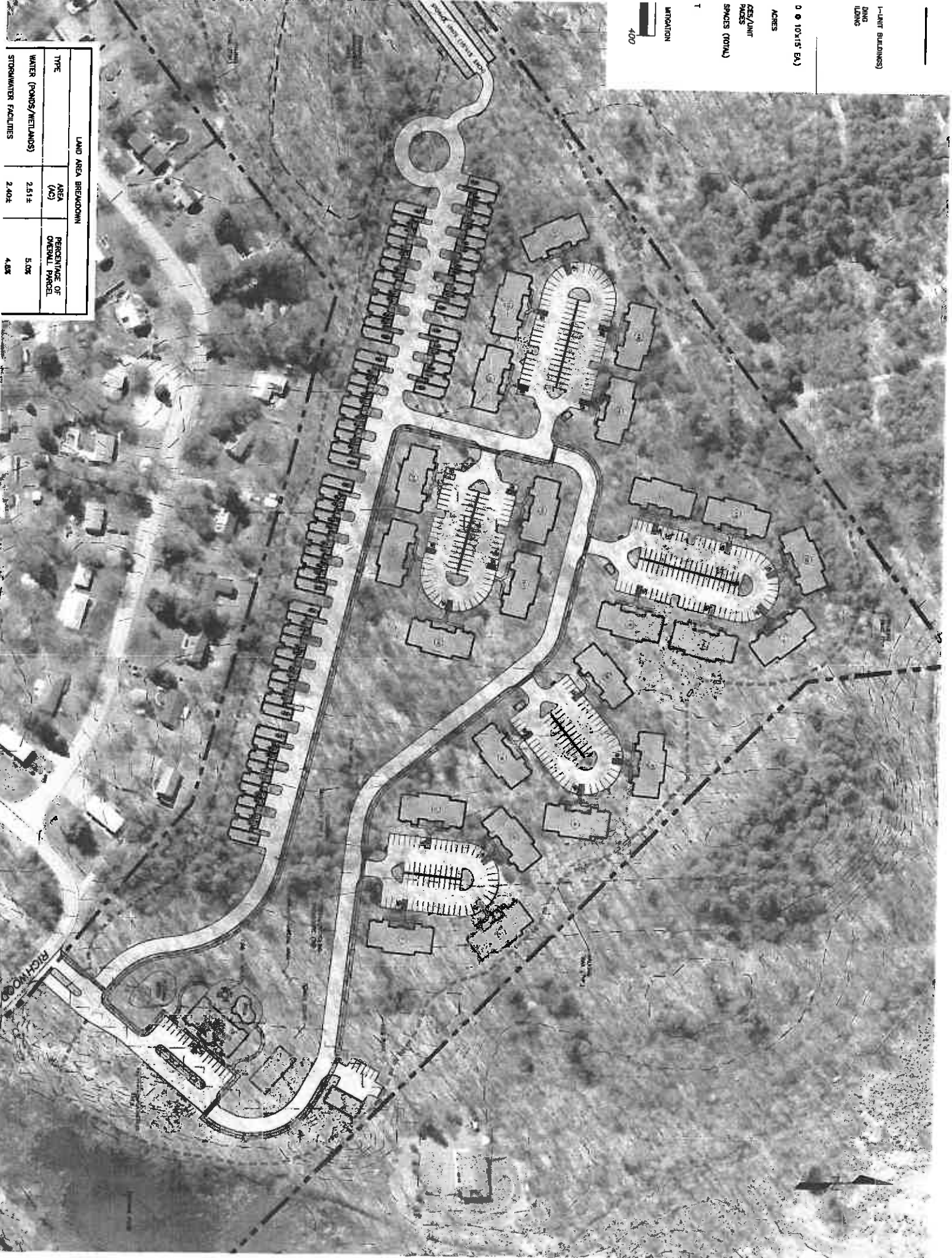
ACRES

0.55/UNIT
 SPACES (TOTAL)

T

ATTENTION

400



LAND AREA BREAKDOWN		
TYPE	AREA (AC)	PERCENTAGE OF OVERALL PARCEL
WATER (PONDS/WETLANDS)	2.514	5.0%
STORMWATER FACILITIES	2.404	4.8%



2021-206



200 Spectrum Center Dr,
Irvine, CA 92618

Phone: (949) 528-712
Email:
Bianca.Leon.Contractor@crowncastl
e.com
www.crowncastle.com

August 17, 2021

VIA email
dawne.kelly@schodack.org

TOWN OF SCHODACK
265 CHURMAN ROAD
CASTLETON, NY 12033

Re: BU 806673 / "ABY SCHODACK 959420" / 78 ROUTE 150, SCHODACK, NY 12033- ("Site")
Option and Lease Agreement, dated July 8, 1993, as it may have been amended and assigned ("Lease")
Consent for sublease

Dear TOWN OF SCHODACK,

In order to better serve the public and minimize the number of towers in an area where this property is located, DISH Network intends to sublease a portion of the Site. The sublease will include installation of new equipment within the lease area; however, it will not alter the character or use of the site nor will it change the nature of the occupancy of the Site. As used in this letter, the term "sublease" may include any arrangement by which a third party can install and operate its equipment at the Site as permitted under the Lease.

Under the Lease, Landlord's consent cannot be unreasonably withheld, conditioned or delayed. Please provide your consent **on or before October 15, 2021** by signing below and returning to Bianca.Leon.Contractor@crowncastle.com so that we may install DISH Network's equipment as permitted under the Lease.

If you have any questions concerning this request, please contact Bianca Leon at (949) 528-712 or Bianca.Leon.Contractor@crowncastle.com

Sincerely,

Agreed and accepted _____
(Date)

Bianca Leon

Bianca Leon
Real Estate Specialist

(Lessor's signature)

(Lessor's name and title)

TOWN OF SCHODACK

August 17, 2021

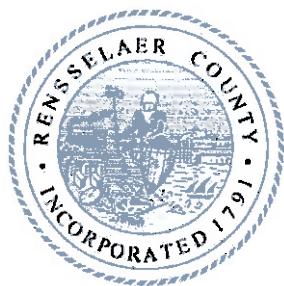
Page 2

[Enclosures]

P.S. Please indicate below if you are interested in learning more about removing the obligation for you to sign these consent letters and receive a notice letter instead.

(check here) Yes, I'm interested in learning more.

2021-207



OFFICE OF THE RENSSELAER COUNTY ATTORNEY

Carl J. Kempf III
Rensselaer County Attorney

Steven F. McLaughlin
County Executive

Carl J. Kempf III
Rensselaer County Attorney
518-265-7268
cj Kempf@rensco.com

August 24, 2021

Town of Schodack
Attn: Supervisor Harris
265 Schuurman Rd.
Castleton, NY 12033

Re: Discovery Reform Sub-Grant Agreement

Dear Supervisor Harris:

Enclosed please find the Discovery Reform Sub-Grant Agreement, granting the Town of Schodack, \$8,689.00, for services furnished by the Town's Police Department. Please countersign the Agreement and return a fully executed copy to my office.

Sincerely,

Carl J. Kempf III

Encl.

DISCOVERY REFORM SUB-GRANT AGREEMENT

This Discovery Reform Sub-grant Agreement ("Agreement") takes effect on July 15, 2021 ("Effective Date") and is between the County of Rensselaer ("COUNTY"), having an office located at the Rensselaer County Government Center, 1600 Seventh Avenue, Troy, New York 12180, and the TOWN OF SCHODACK ("SUB-GRANTEE"), having an office located at 265 Schuurman Road, Castleton, New York 12033. COUNTY and SUB-GRANTEE are sometimes referred to in this Agreement individually as a "Party" and collectively as the "Parties".

WHEREAS, the COUNTY is duly established and existing under Article I of the Rensselaer County Charter; and

WHEREAS, by Resolution numbered G/255/21, the COUNTY Legislature authorized the COUNTY to accept a grant awarded to it by the New York State Division of Criminal Justice Services for criminal justice discovery reform ("Grant"); and

WHEREAS, by Resolution numbered G/255/21, the COUNTY Legislature further authorized the COUNTY to award a portion of the Grant to SUB-GRANTEE; and

WHEREAS, as set forth in this Agreement, COUNTY desires to award SUB-GRANTEE certain monies from the Grant and GRANTEE desires to receive such award to support SUB-GRANTEE in providing certain services and activities in furtherance of the health, safety and welfare of the residents of Rensselaer County; and

NOW, THEREFORE, the Parties agree as follows:

1. SUB-GRANTEE will provide discovery reform related services and activities as set forth in and in accordance with the budget attached as Exhibit A of this Agreement. COUNTY, in consideration of SUB-GRANTEE rendering said services, will pay to SUB-GRANTEE the sum not to exceed \$8,689.00, payable in the manner hereinafter set forth.
2. SUB-GRANTEE acknowledges and agrees that this Agreement is executory to the extent New York State or Federal funding is relied upon by COUNTY for the payment of any goods, labor or services to be furnished by SUB-GRANTEE under the terms and provisions of this Agreement, and that in the event such funding shall not be forthcoming, this Agreement may be terminated by COUNTY upon reasonable prior written notice to SUB-GRANTEE.
3. SUB-GRANTEE will bill the COUNTY from time to time as designated by the COUNTY and in compliance with the terms and conditions of the Grant.
4. SUB-GRANTEE acknowledges and agrees that the services to be provided pursuant to the terms of this Agreement are provided as an independent contractor and not as an agent or as employees of COUNTY. SUB-GRANTEE agrees to hold harmless, defend, and indemnify COUNTY and its agents, officials and employees from and against all claims, damages, losses, and expenses (including without limitation attorneys' fees and costs) arising out of or in any way related to (i) the performance of the services under this Agreement or (ii) any breach or default in the performance of any of SUB-GRANTEE's obligations under this Agreement including, without limitation, any breach of any warranty or representation. This indemnity shall not be limited by reason of any insurance coverage required under this Agreement.


5. SUB-GRANTEE will maintain during the term of this Agreement such Workers' Compensation and Disability Insurance Coverage as may be required by law, together with liability insurance with liability limits reasonably satisfactory to the COUNTY, and provide to the COUNTY proof of all such insurance coverage at the time of the signing of this Agreement by SUB-GRANTEE.
6. In no event shall COUNTY be liable to SUB-GRANTEE for any special, consequential, indirect, exemplary, punitive, incidental, or similar damages, even if COUNTY has been apprised of the possibility thereof.
7. SUB-GRANTEE represents and warrants that it, and its employees and/or contractors, are not excluded from participation and are not otherwise ineligible to participate in a "federal health care program" as defined in 42 U.S.C.1320a-7b or in any other government payment program. SUB-GRANTEE further represents and warrants that it will perform screening, on a monthly basis, all of its employees and subcontractors against: (a) The General Services Administration's Federal Excluded Party List System or any successor list; (b) The United States Department of Health and Human Service's Office of the Inspector General's List of Excluded Individuals and Entities or any successor list; and (c) The New York State Department of Health's Office of the Medicaid Inspector General's list of Restricted, Terminated or Excluded Individuals or Entities, or any successor list. In the event that an excluded person or entity is discovered by SUB-GRANTEE, SUB-GRANTEE must notify the COUNTY within 5 days of such discovery. The COUNTY reserves the right to terminate this Agreement upon such notification or in the event that SUB-GRANTEE fails to fulfill its obligations under this section. The COUNTY further reserves its right to terminate this Agreement and declare the same null and void in the event that SUB-GRANTEE fails to fulfill its obligations under this section.
8. SUB-GRANTEE will:
 - a. submit an annual report to the COUNTY within thirty days of the end of the Term evaluating the effectiveness of such service or program and certifying that the funds received through this Agreement have been used for the purposes intended within this Agreement;
 - b. identify and assist in the development of sources of future funding other than by the County; and
 - c. not to assign, transfer, convey, sub lease or otherwise dispose of this Agreement or the right, title or interest therein or the power to execute same to any other persons, company or corporation without the prior consent, in writing, of the COUNTY.
9. This Agreement begins on the Effective Date and ends on December 31, 2021. This Agreement may be terminated by COUNTY on thirty (30) days prior notice, in writing, to SUB-GRANTEE.
10. SUB-GRANTEE will abide by the applicable provisions of the Human Rights Law of the State of New York, as set forth in Sections 290-301 of the Executive Law of the State of New York.

11. SUB-GRANTEE will abide by and comply with all applicable federal, state and local laws, rules, regulations and orders, as well as the terms and conditions applicable to the Grant. COUNTY may audit the records of SUB-GRANTEE with respect to any Grant funds received by the SUB-GRANTEE and the performance of services and activities by SUB-GRANTEE with respect to such received Grant funds.
12. SUB-GRANTEE certifies, to the best of its knowledge and belief, that:
 - a. No State or Federal appropriated funds have been paid or will be paid, by or on behalf of the SUB-GRANTEE, to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with either the awarding of any contract, the making of any grant, the making of any loan, the entering into of any cooperative agreement, including, without limitation, this Agreement, or the extension, continuation, renewal, amendment, or modification of any contract, grant loan, or cooperative agreement, including, without limitation, this Agreement.
 - b. If any funds other than State or Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence legislation or appropriation actions pending before local, State and Federal executive and/or legislative bodies in connection with this Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
13. This Agreement, and any dispute between the Parties arising out of or related to this Agreement, shall be governed by and construed in accordance with the laws of the State of New York, excluding its conflict of laws rules.
14. Any and all legal action that is initiated to enforce any provision of this Agreement or arising out of or related to this Agreement must be brought or filed state court located in Rensselaer County, New York.
15. No provision of this Agreement is intended to confer any benefit upon any third party and no third party shall have the right to enforce any provision of this Agreement.
16. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver.
17. If any provision of this Agreement is held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions will not in any way be affected or impaired thereby.
18. This Agreement, including its Exhibit, may not be modified except in writing signed by duly authorized representatives of the Parties.
19. This Agreement together with Exhibit A constitutes the entire agreement between the Parties pertaining to its subject matter, superseding all prior and contemporaneous agreements, proposals, letters of intent and memorandums of understanding. In the event of a conflict between Sections 1-19 of this Agreement and Exhibit A of this Agreement, Sections 1-19 control.

[SIGNATURE PAGE FOLLOWS]

COUNTY OF RENSSELAER

SUB-GRANTEE

By: 
Name: STEVEN F. MCLAUGHLIN
Title: COUNTY EXECUTIVE

By: _____
Name:
Title:

APPROVED AS TO FORM


Carl J. Kempf III
Rensselaer County Attorney
Date 7/19, 2021

Approved by the
Rensselaer County Bureau of Budget


James A. Breig 7/21/21
Deputy Director of Budget

EXHIBIT A

ATTACHMENT: 2020-21 Discovery Reform Funding Plan

Instructions: Indicate each Sub-Grantee using this attachment. If additional lines are needed, please submit additional attachments. Completed form(s) must be attached in GMS as part of the submitted Application. The total amount requested by the county cannot exceed the total county allocation provided on the award notice.

County: Rensselaer

Sub-Grantee	Sub-Grantee Name (if applicable) :	Expense	Activities	Describe how this expenditure supports implementation of the discovery and/or bail reform efforts.
Police Dept	Schodack PD	\$ 8,289	Administrative Support	Staff necessary to create discovery files and add all essential information related to discovery reform.
Police Dept	Schodack PD	\$ 400	Computers (Hard/Software)	Digital media purchases.
	TOTAL:	\$ 8,689		

NOTE: The total amount requested by the county cannot exceed the total county allocation provided on the award notice.

**SOLAR FACILITY CONSTRUCTION
SURETY AGREEMENT**

This Solar Facility Construction Surety Agreement (this "Agreement"), dated effective as of August __, 2021 (the "Effective Date"), is between the Town of Schodack ("Town"), and Cedar Hill Solar, LLC, a New York limited liability company ("Owner"). Town and Owner may be referred to herein individually, as a "Party" and collectively, as the "Parties."

Recitals

A. Owner intends to construct, operate and maintain a solar energy facility with an estimated capacity of 4.98 MWac and 7.49 MWdc and all related on-site improvements, including all associated accessory structures (collectively, the "Facility") at Phillips Road, Schodack, Rensselaer County, NY (Portions of Tax Map No. 177.-8-29.1, 177.-8-15, and 177.-8-22) (the "Site").

B. Section 219-39.3(C)(13)(a) of Town Code (Town Code Section 219-39.3 being referred to herein as the "Solar Law") requires that Owner post a surety for purposes of construction of the Facility, and to guarantee compliance with the conditions of the approvals by the Planning Board and the Town Board for the Facility (the "Conditions").

C. Owner intends to post cash to satisfy the surety requirements under the Solar Law, and Town has determined that such surety is acceptable to satisfy the Solar Law, pursuant to the terms and conditions hereof.

Agreement

In consideration of the covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. ***Surety.***

(a) ***Cash.*** Prior to issuance of the building permit for the Facility (the "Building Permit"), Owner shall, in satisfaction of the surety requirements under the Solar Law, deposit with Town cash (the "Construction Fund") in the amount of six-hundred and thirty thousand dollars (\$630,000) (the "Surety Amount"), which cash Town shall hold in trust for the sole purpose of Town's performance under Section 3(b), if any, in accordance herewith. Subject to Section 1(b), the Construction Fund shall remain in place until the first anniversary of the date that the Certificate of Compliance for the Facility is issued by the Town's building department (such one-year anniversary date being referred to herein as the "Completion Date").

(b) ***Replacement Surety.*** At any time during the term hereof, Owner may replace the Construction Fund with: (i) a bond that cannot expire and which also meets all requirements of the Solar Law, in favor of the Town with a face amount equal to the Surety Amount; (ii) a nonrenewable (or if renewable then providing for automatic renewal thereof such that the letter of credit is in effect at all times and which provides by its terms that the failure to renew or expiration of same shall constitute a default of the conditions of said letter of credit) and

irrevocable letter of credit for the Surety Amount in a form and from a financing institution reasonably acceptable to the Parties; or (iii) any combination of the foregoing, including cash, such that the aggregate amount thereof is not less than the Surety Amount (in any case, the "Replacement Surety"). Any Replacement Surety shall remain in place until the Completion Date. At any time, Owner may replace the Replacement Surety with any one or more of the foregoing, including cash, *provided* that the aggregate amount of the Replacement Surety is an amount not less than the Surety Amount. If at any time Owner replaces the Construction Fund or any Replacement Surety, in whole or in part, with another Replacement Surety pursuant to the foregoing, Town shall return to Owner or cause to be returned to Owner the replaced surety (*i.e.*, cash or any bond or letter of credit) within fifteen (15) days following such replacement.

(c) ***Interest on Cash.*** To the extent that the Construction Fund or any cash posted as Replacement Surety is held by a third party for the benefit of Town in an interest bearing account, any interest accruing on such funds shall be the property of Owner and shall be paid to the Owner upon the discharge of the surety obligations as set forth in Section 4. Nothing herein, however, shall obligate the Town to hold the Construction Fund or any cash posted as Replacement Surety in an interest bearing account, or if so held, to realize any minimum interest amount or rate of return on funds so deposited. Furthermore, Owner acknowledges the Town is restricted where and in what manner it can deposit funds.

2. ***Facility Construction.***

(a) Within eighteen (18) months following the date that the Building Permit is issued, Owner shall (i) construct the Facility in accordance with the approved construction drawings for the Facility attached hereto as Exhibit A, as such drawings may be amended to conform with the as-built drawings for the Facility and the Conditions, and (ii) obtain a Certificate of Compliance for the Facility.

(b) Owner shall deliver to Town a true, correct and complete copy of the as-built drawings for the Facility by the earlier of: (i) thirty (30) days following Owner's receipt of same, and (ii) ninety (90) days after the issuance of the Certificate of Compliance for the Facility.

3. ***Use of Surety.***

(a) In the event that Owner breaches Section 2 or fails to maintain the surety required pursuant to Section 1 (in any case, a "Default"), Town shall notify Owner thereof and Owner shall have sixty (60) days following its receipt of such notice to cure such Default to Town's reasonable satisfaction ("Cure"); *provided, however*, that if such Cure cannot reasonably be effected within such sixty (60) day period, Owner may request from the Town such additional time as is reasonably necessary, not to exceed an additional sixty (60) days, to effect such Cure, which request shall not be unreasonably denied, *provided* that, to the extent reasonably practicable, Owner is diligently pursuing same upon the expiration of the initial sixty (60) day period, and *provided further* that Owner shall have such time in addition to the foregoing cure period as is reasonably necessary to effect the Cure in the event that adverse weather conditions or seasonality makes effecting such Cure within the foregoing cure period not commercially reasonable. Owner, however, acknowledges and agrees that the period to cure any failure to maintain the surety required under Section 1 shall not be extended based on adverse weather conditions or seasonality.

(b) If Owner fails to Cure a Default in accordance with Section 3(a), then Town or its agents or contractors may (i) if the form of surety in place is a bond, invoke any and all available remedies provided or under the terms of said bond, or (ii) if the form of surety in place is cash or a letter of credit, enter onto the Site without further permission, notice or process, to commence such Cure using the proceeds of said cash or letter of credit, as applicable, to cover its costs attributable thereto. If the Town elects to enter onto the Site and effect a Cure using the proceeds of the Construction Fund or Replacement Surety, then upon Town's completion of such Cure, Owner's obligations under this Agreement (with the exception of those obligations set forth in Section 3(c)) shall be deemed discharged, this Agreement shall be deemed terminated and, if at the time that Town commenced such Cure in accordance with this Section 3(b), cash had been posted as the Construction Fund or as Replacement Surety, any such cash remaining after Town having effected such Cure (together with accrued interest, if any) shall be returned to Owner along with any other Replacement Surety, as applicable, within thirty (30) days after completion of such Cure. Owner acknowledges and agrees that its failure to Cure a Default in accordance with Section 3(a) shall constitute a violation of the Solar Law and the Conditions, and that in such event the Town shall be authorized to revoke building permits and any other approvals issued for the Facility without further permission, notice, or process.

(c) Any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety shall be used by Town solely to pay for the cost to effect a Cure pursuant to Section 3(b), including the amount of any reasonable attorneys' fees, if any, incurred by the Town in connection with such action. Other than the Construction Fund or any Replacement Surety, Owner shall have no security obligations to Town with respect to construction of the Facility; *provided, however*, that, in the event the cost to effect such Cure exceeds the amount of the Construction Fund or any Replacement Surety, Owner shall be responsible to reimburse Town for any such excess cost, *provided* that such excess cost is not as a result of Town using any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety for any reason other than to pay for effecting a Cure and such costs are reasonably documented and Town has delivered to Owner a true, correct and complete copy of such documentation. In the event that Town uses any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety for any reason other than to pay for effecting a Cure, Town shall reimburse such amount to Owner upon demand, *less* the amount of any reasonable attorneys' fees, if any, incurred by the Town in undertaking such action(s).

4. ***Discharge of Surety Obligations.*** On the Completion Date, and *provided* that at such time there is not a Default then in existence and continuing, Owner's obligations hereunder shall be deemed discharged, this Agreement shall be deemed terminated and the Construction Fund or Replacement Surety, or the balance thereof, if any, shall be returned to Owner by Town within thirty (30) days following the Completion Date.

5. ***Force Majeure.***

(a) Owner shall not be considered in breach of any obligation hereunder, and no Default shall be deemed to have occurred, to the extent that performance of the subject obligation is prevented or delayed by a Force Majeure Event (defined in Section 5(b)). Owner's obligation to perform the subject obligation hereunder shall be suspended during the tenure of the subject Force Majeure Event and Owner shall not be liable in damages or otherwise, nor shall

Town be permitted to demand any funds comprising or proceeds of the Construction Fund or any Replacement Surety, as applicable, for a failure of Owner to perform if and only to the extent that Owner is unable to perform or prevented from performing by the Force Majeure Event. As soon as reasonably possible after the occurrence of the Force Majeure Event, but no later than thirty (30) days following the date that Owner has knowledge that such occurrence qualifies or could qualify as a Force Majeure Event, Owner shall give Town written notice describing the particulars of the occurrence thereof and its estimated duration. Owner shall make commercially reasonable efforts to recover from the effects of the Force Majeure Event and shall resume performance of its obligations hereunder as soon as reasonably practicable.

(b) For purposes of this Agreement, "Force Majeure Event" means any circumstance not within Owner's reasonable control, but only if and to the extent that such event: (i) is not due to Owner's negligence or willful misconduct; and (ii) is not the result of any failure of Owner to perform any of its obligations hereunder; and (iii) did not occur as a result of Owner's actions or failure to act. Subject to the foregoing conditions, Force Majeure Events include: acts of God; war; acts of the public enemy; terrorism; riot; civil commotion; sabotage; fire; floods; landslide; volcanic eruption; epidemics; global pandemics; quarantine restrictions; embargos; and governmental authority decreed official state of emergency.

6. *Miscellaneous.*

(a) *Amendment and Waiver.* This Agreement may not be altered or amended, nor any rights hereunder waived, except by a written agreement executed by the Parties. No failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other (or further) exercise thereof.

(b) *Notices.* All notices, demands and other communications required or permitted hereunder ("Notices") shall be in writing and addressed as set forth below. A Notice shall be deemed made or given when personally delivered, three (3) business days after deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested, two (2) business days after being delivered to a courier guaranteeing overnight delivery. Either Party may, by notice so delivered to the other Party, change the address or individual to which delivery shall thereafter be made.

If to Owner:

Cedar Hill Solar, LLC
c/o AMP Solar Development Inc.
1550 Wewatta Street, 4th Floor
Denver, Colorado 80202
Attn: Legal Department

with copies to:

legalnotices@amp.energy

and:

jdonald@amp.energy

If to Town:

Town of Schodack
265 Schuurman Road
Castleton, NY 12044
Attn: Town Attorney

with copies to:

Town Director of Planning

at the aforementioned address

(c) **No Assignment; Binding Effect; Third Parties.** This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that Owner may assign this Agreement without Town's prior consent to any of Owner's affiliates taking ownership of the Facility upon (i) notice of such assignment delivered to Town, and (ii) if the form of the surety in favor of the Town consists of a bond and/or letter of credit, the submission to the Town of an updated bond and/or letter of credit in the name of the Owner's affiliate to whom this Agreement is being assigned and which must provide the same protections to the Town. Any assignment in violation of the foregoing shall be void. For the avoidance of doubt, any change in ownership of Owner shall not be deemed an assignment hereunder. Subject to the foregoing, this Agreement is binding upon and inures to the benefit of the Parties and their respective agents, successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any third party any benefits, rights or remedies.

(d) **Governing Law; Venue; No Jury Trial; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. The Parties consent to exclusive venue and jurisdiction in the state and federal courts located in New York, New York. **TO THE EXTENT ALLOWED UNDER APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH REGARD TO ANY DISPUTE RELATED HERETO.** If any provision hereof is deemed by a court of competent jurisdiction to be unenforceable, in whole or in part, the scope of such provision shall be reduced to the extent necessary to make it enforceable or, if such reduction is not possible for any reason, such provision shall be severed from this Agreement entirely without effect upon the balance hereof.

(e) **Construction.** All Exhibits referred to herein are hereby incorporated by reference herein in their entirety. The headings of the Sections hereof and any listing of their contents are for convenience of reference only and shall not limit or otherwise affect any of the terms or provisions hereof. The Parties acknowledge that this Agreement is the result of negotiations between the Parties, each Party had equal bargaining power, and no provision hereof shall be construed against a Party as a result of the preparation hereof. All references herein to Sections, subsections and other subdivisions refer to the corresponding Sections, subsections and other subdivisions of or to this Agreement unless expressly provided otherwise. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular Section, subsection or other subdivision unless expressly so limited. The words "this Section" and "this subsection," and words of similar import, refer only to the Section or subsection hereof in which such words occur. The word "including" (in its various forms) means "including without limitation." Words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(f) **Integration; Execution.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior agreements, understandings and statements with respect thereto. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Facsimile or electronic signatures are valid and binding on the Parties.

The Parties have executed this Agreement to be effective as of the Effective Date.

TOWN:

OWNER:

TOWN OF SCHODACK

CEDAR HILL SOLAR, LLC

By: AMP Solar Development Inc., its Manager

By: _____

Name: _____

Title: _____

By: 

Name: Nicole LeBlanc

Title: Authorized Signatory

**SOLAR FACILITY MAINTENANCE
SURETY AGREEMENT**

This Solar Facility Maintenance Surety Agreement (this “Agreement”), dated effective as of August __, 2021 (the “Effective Date”), is between the Town of Schodack (“Town”), and Cedar Hill Solar, LLC, a New York limited liability company (“Owner”). Town and Owner may be referred to herein individually, as a “Party” and collectively, as the “Parties.”

Recitals

A. Owner intends to construct, operate and maintain a solar energy facility with an estimated capacity of 4.98 MWac and 7.49 MWdc and all related on-site improvements, including all associated accessory structures (collectively, the “Facility”) at Phillips Road, Schodack, Rensselaer County, NY (Portions of Tax Map No. 177.-8-29.1, 177.-8-15, and 177.-8-22) (the “Site”).

B. Section 219-39.3(C)(13)(a) of Town Code (Town Code Section 219-39.3 being referred to herein as the “Solar Law”) requires that Owner post a surety for purposes of maintenance of the Site, and to guarantee compliance with the conditions of the approvals by the Planning Board and the Town Board for the Facility (the “Conditions”). Maintenance of the Facility shall be addressed in a separate decommissioning agreement, such that a failure to maintain the Facility shall be grounds for decommissioning in accordance with the terms thereof.

C. Owner intends to post cash to satisfy the surety requirements under the Solar Law, and Town has determined that such surety is acceptable to satisfy the Solar Law, pursuant to the terms and conditions hereof.

Agreement

In consideration of the covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. ***Surety.***

(a) ***Cash.*** Prior to issuance of the building permit for the Facility (the “Building Permit”), Owner shall, in satisfaction of the surety requirements under the Solar Law, deposit with Town cash (the “Maintenance Fund”) in the amount of forty thousand, six hundred and eighty dollars (\$40,680.00) (the “Surety Amount”), which cash Town shall hold in trust for the sole purpose of Town’s performance under Section 3(b), if any, in accordance herewith. Subject to Section 1(b), the Maintenance Fund shall remain in place until the Facility is decommissioned, which for purposes of this Agreement shall mean the complete deconstruction of the Facility, including the removal of all structures and non-vegetative improvements (the “Surety Expiration Date”).

(b) ***Replacement Surety.*** At any time during the term hereof, Owner may replace the Maintenance Fund with: (i) a bond that cannot expire and which also meets all requirements of the Solar Law, in favor of the Town with a face amount equal to the Surety

Amount; (ii) a nonrenewable (or if renewable then providing for automatic renewal thereof such that the letter of credit is in effect at all time and which provides by its terms that the failure to renew or expiration of same shall constitute a default of the conditions of said letter of credit) and irrevocable letter of credit for the Surety Amount in a form and from a financing institution reasonably acceptable to the Parties; or (iii) any combination of the foregoing, including cash, such that the aggregate amount thereof is not less than the Surety Amount (in any case, the "Replacement Surety"). Any Replacement Surety shall remain in place until the Surety Expiration Date. At any time, Owner may replace the Replacement Surety with any one or more of the foregoing, including cash, *provided* that the aggregate amount of the Replacement Surety is an amount not less than the Surety Amount. If at any time Owner replaces the Maintenance Fund or any Replacement Surety, in whole or in part, with another Replacement Surety pursuant to the foregoing, Town shall return to Owner or cause to be returned to Owner the replaced surety (*i.e.*, cash or any bond or letter of credit) within fifteen (15) days following such replacement.

(c) ***Interest on Cash.*** To the extent that the Maintenance Fund or any cash posted as Replacement Surety is held by a third party for the benefit of Town in an interest bearing account, any interest accruing on such funds shall be the property of Owner and shall be paid to the Owner upon the discharge of the surety obligations as set forth in Section 4. Nothing herein, however, shall obligate the Town to hold the Maintenance Fund or any cash posted as Replacement Surety in an interest bearing account, or if so held, to realize any minimum interest amount or rate of return on funds so deposited. Furthermore, Owner acknowledges the Town is restricted where and in what manner it can deposit funds.

2. ***Site Maintenance.***

(a) Following delivery to Owner of the Certificate of Compliance for the Facility by the Town's building department until the Facility is decommissioned, Owner shall assure that the Conditions are satisfied and the Site, including, but not limited to, the landscaping thereof, existing vegetative growth, screening, lighting, signage, access and interior roads, and security fencing, is maintained in accordance with the as-built drawings for the Facility and the requirements of the Solar Law.

(b) Owner shall deliver to Town a true, correct and complete copy of the as-built drawings for the Facility by the earlier of: (i) thirty (30) days following Owner's receipt of same, and (ii) ninety (90) days after the issuance of the Certificate of Compliance for the Facility.

3. ***Use of Surety.***

(a) In the event that Owner breaches Section 2 or fails to maintain the surety required pursuant to Section 1 (in any case, a "Default"), Town shall notify Owner thereof and Owner shall have sixty (60) days following its receipt of such notice to cure such Default to Town's reasonable satisfaction ("Cure"); *provided, however*, that if such Cure cannot reasonably be effected within such sixty (60) day period, Owner may request from the Town such additional time as is reasonably necessary, not to exceed an additional sixty (60) days, to effect such Cure, which request shall not be unreasonably denied, *provided* that, to the extent reasonably practicable, Owner is diligently pursuing same upon the expiration of the initial sixty (60) day period, and *provided further* that Owner shall have such time in addition to the foregoing cure period as is

reasonably necessary to effect the Cure in the event that adverse weather conditions or seasonality makes effecting such Cure within the foregoing cure period not commercially reasonable. Owner, however, acknowledges and agrees that the period to cure any failure to maintain the surety required under Section 1 shall not be extended based on adverse weather conditions or seasonality.

(b) If Owner fails to Cure a Default in accordance with Section 3(a), then Town or its agents or contractors may, at its sole option, either (i) enter onto the Site without further permission, notice or process, to commence such Cure using the proceeds of the Maintenance Fund or the Replacement Surety, as applicable, to cover its costs attributable thereto, or (ii) revoke the Certificate of Compliance issued for the Facility and Site without further permissions, notice, or process. If the Town elects to enter onto the Site and effect a Cure using the proceeds of the Maintenance Fund or Replacement Surety, then upon Town's completion of such Cure, Owner's obligations under this Agreement shall be deemed discharged, this Agreement shall be deemed terminated and, if at the time that Town commenced such Cure in accordance with this Section 3(b), cash had been posted as the Maintenance Fund or as Replacement Surety, any such cash remaining after Town having effected such Cure (together with accrued interest, if any) shall be returned to Owner along with any other Replacement Surety, as applicable, within thirty (30) days after completion of such Cure. Owner acknowledges and agrees that its failure to Cure a Default in accordance with Section 3(a) shall constitute a violation of the Solar Law and the Conditions, and that in such event the Town shall be authorized to revoke the Certificate of Compliance issued for the Facility and Site without further permission, notice, or process, and, at its sole option, may elect to proceed to decommission the Facility.

(c) Any funds comprising or that are the proceeds of the Maintenance Fund or any Replacement Surety shall be used by Town solely to pay for the cost to effect a Cure pursuant to Section 3(b), including the amount of any reasonable attorneys' fees, if any, incurred by the Town in connection with such action. Other than the Maintenance Fund or any Replacement Surety, Owner shall have no security obligations to Town with respect to the maintenance of the Site. In the event that Town uses any funds comprising or that are the proceeds of the Maintenance Fund or any Replacement Surety for any reason other than in connection with undertaking any action authorized under Section 3(b) above, the Town shall reimburse such amount to Owner upon demand, less the amount of any reasonable attorneys' fees, if any, incurred by the Town in undertaking such action(s).

4. ***Discharge of Surety Obligations.*** On the Surety Expiration Date, and *provided* that at such time there is not a Default then in existence and continuing, Owner's obligations hereunder shall be deemed discharged, this Agreement shall be deemed terminated and the Maintenance Fund or Replacement Surety, or the balance thereof, if any, shall be returned to Owner by Town within thirty (30) days following the Surety Expiration Date.

5. ***Force Majeure.***

(a) Owner shall not be considered in breach of any obligation hereunder, and no Default shall be deemed to have occurred, to the extent that performance of the subject obligation is prevented or delayed by a Force Majeure Event (defined in Section 5(b)). Owner's obligation to perform the subject obligation hereunder shall be suspended during the tenure of the subject Force Majeure Event and Owner shall not be liable in damages or otherwise, nor shall

Town be permitted to demand any funds comprising or proceeds of the Maintenance Fund or any Replacement Surety, as applicable, for a failure of Owner to perform if and only to the extent that Owner is unable to perform or prevented from performing by the Force Majeure Event. As soon as reasonably possible after the occurrence of the Force Majeure Event, but no later than thirty (30) days following the date that Owner has knowledge that such occurrence qualifies or could qualify as a Force Majeure Event, Owner shall give Town written notice describing the particulars of the occurrence thereof and its estimated duration. Owner shall make commercially reasonable efforts to recover from the effects of the Force Majeure Event and shall resume performance of its obligations hereunder as soon as reasonably practicable.

(b) For purposes of this Agreement, "Force Majeure Event" means any circumstance not within Owner's reasonable control, but only if and to the extent that such event: (i) is not due to Owner's negligence or willful misconduct; and (ii) is not the result of any failure of Owner to perform any of its obligations hereunder; and (iii) did not occur as a result of Owner's actions or failure to act. Subject to the foregoing conditions, Force Majeure Events include: acts of God; war; acts of the public enemy; terrorism; riot; civil commotion; sabotage; fire; floods; landslide; volcanic eruption; epidemics; global pandemics; quarantine restrictions; embargos; and governmental authority decreed official state of emergency.

6. ***Miscellaneous.***

(a) ***Amendment and Waiver.*** This Agreement may not be altered or amended, nor any rights hereunder waived, except by a written agreement executed by the Parties. No failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other (or further) exercise thereof.

(b) ***Notices.*** All notices, demands and other communications required or permitted hereunder ("Notices") shall be in writing and addressed as set forth below. A Notice shall be deemed made or given when personally delivered, three (3) business days after deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested, two (2) business days after being delivered to a courier guaranteeing overnight delivery. Either Party may, by notice so delivered to the other Party, change the address or individual to which delivery shall thereafter be made.

If to Owner:

Cedar Hill Solar, LLC
c/o AMP Solar Development Inc.
1550 Wewatta Street, 4th Floor
Denver, Colorado 80202
Attn: Legal Department

with copies to:

legalnotices@amp.energy

and:

jdonald@amp.energy

If to Town:

Town of Schodack
265 Schuurman Road
Castleton, NY 12044
Attn: Town Attorney

with copies to:

Town Director of Planning
at the aforementioned address

(c) **No Assignment; Binding Effect; Third Parties.** This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that Owner may assign this Agreement without Town's prior consent to any of Owner's affiliates taking ownership of the Facility upon (i) notice of such assignment delivered to Town, and (ii) if the form of the surety in favor of the Town consists of a bond and/or letter of credit, the submission to the Town of an updated bond and/or letter of credit in the name of the Owner's affiliate to whom this Agreement is being assigned and which must provide the same protections to the Town. Any assignment in violation of the foregoing shall be void. For the avoidance of doubt, any change in ownership of Owner shall not be deemed an assignment hereunder. Subject to the foregoing, this Agreement is binding upon and inures to the benefit of the Parties and their respective agents, successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any third party any benefits, rights or remedies.

(d) **Governing Law; Venue; No Jury Trial; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. The Parties consent to exclusive venue and jurisdiction in the state and federal courts located in New York, New York. **TO THE EXTENT ALLOWED UNDER APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH REGARD TO ANY DISPUTE RELATED HERETO.** If any provision hereof is deemed by a court of competent jurisdiction to be unenforceable, in whole or in part, the scope of such provision shall be reduced to the extent necessary to make it enforceable or, if such reduction is not possible for any reason, such provision shall be severed from this Agreement entirely without effect upon the balance hereof.

(e) **Construction.** The headings of the Sections hereof and any listing of their contents are for convenience of reference only and shall not limit or otherwise affect any of the terms or provisions hereof. The Parties acknowledge that this Agreement is the result of negotiations between the Parties, each Party had equal bargaining power, and no provision hereof shall be construed against a Party as a result of the preparation hereof. All references herein to Sections, subsections and other subdivisions refer to the corresponding Sections, subsections and other subdivisions of or to this Agreement unless expressly provided otherwise. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular Section, subsection or other subdivision unless expressly so limited. The words "this Section" and "this subsection," and words of similar import, refer only to the Section or subsection hereof in which such words occur. The word "including" (in its various forms) means "including without limitation." Words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(f) **Integration; Execution.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior agreements, understandings and statements with respect thereto. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Facsimile or electronic signatures are valid and binding on the Parties.

[Signature page follows.]

The Parties have executed this Agreement to be effective as of the Effective Date.

TOWN:

TOWN OF SCHODACK

By: _____
Name: _____
Title: _____

OWNER:

CEDAR HILL SOLAR, LLC

By: AMP Solar Development Inc., its Manager

By:  _____
Name: Nicole LeBlanc
Title: Authorized Signatory

**SOLAR FACILITY CONSTRUCTION
SURETY AGREEMENT**

This Solar Facility Construction Surety Agreement (this "Agreement"), dated effective as of August __, 2021 (the "Effective Date"), is between the Town of Schodack ("Town"), and Elmbrook Solar, LLC, a New York limited liability company ("Owner"). Town and Owner may be referred to herein individually, as a "Party" and collectively, as the "Parties."

Recitals

A. Owner intends to construct, operate and maintain a solar energy facility with battery storage, with an estimated capacity of 4.98 MWac and 8.3 MWdc and all related on-site improvements, including all associated accessory structures (collectively, the "Facility") at 2191 Brookview Road, Schodack, Rensselaer County, NY (Tax Map No. 188.-6-15./1 AND 188.-6-Portion of 15) (the "Site").

B. Section 219-39.3(C)(13)(a) of Town Code (Town Code Section 219-39.3 being referred to herein as the "Solar Law") requires that Owner post a surety for purposes of construction of the Facility, and to guarantee compliance with the conditions of the approvals by the Planning Board and the Town Board for the Facility (the "Conditions").

C. Owner intends to post cash to satisfy the surety requirements under the Solar Law, and Town has determined that such surety is acceptable to satisfy the Solar Law, pursuant to the terms and conditions hereof.

Agreement

In consideration of the covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. ***Surety.***

(a) ***Cash.*** Prior to issuance of the building permit for the Facility (the "Building Permit"), Owner shall, in satisfaction of the surety requirements under the Solar Law, deposit with Town cash (the "Construction Fund") in the amount of six-hundred and thirty thousand dollars (\$630,000) (the "Surety Amount"), which cash Town shall hold in trust for the sole purpose of Town's performance under Section 3(b), if any, in accordance herewith. Subject to Section 1(b), the Construction Fund shall remain in place until the first anniversary of the date that the Certificate of Compliance for the Facility is issued by the Town's building department (such one-year anniversary date being referred to herein as the "Completion Date").

(b) ***Replacement Surety.*** At any time during the term hereof, Owner may replace the Construction Fund with: (i) a bond that cannot expire and which also meets all requirements of the Solar Law, in favor of the Town with a face amount equal to the Surety Amount; (ii) a nonrenewable (or if renewable then providing for automatic renewal thereof such that the letter of credit is in effect at all times and which provides by its terms that the failure to renew or expiration of same shall constitute a default of the conditions of said letter of credit) and

irrevocable letter of credit for the Surety Amount in a form and from a financing institution reasonably acceptable to the Parties; or (iii) any combination of the foregoing, including cash, such that the aggregate amount thereof is not less than the Surety Amount (in any case, the "Replacement Surety"). Any Replacement Surety shall remain in place until the Completion Date. At any time, Owner may replace the Replacement Surety with any one or more of the foregoing, including cash, *provided* that the aggregate amount of the Replacement Surety is an amount not less than the Surety Amount. If at any time Owner replaces the Construction Fund or any Replacement Surety, in whole or in part, with another Replacement Surety pursuant to the foregoing, Town shall return to Owner or cause to be returned to Owner the replaced surety (*i.e.*, cash or any bond or letter of credit) within fifteen (15) days following such replacement.

(c) ***Interest on Cash.*** To the extent that the Construction Fund or any cash posted as Replacement Surety is held by a third party for the benefit of Town in an interest bearing account, any interest accruing on such funds shall be the property of Owner and shall be paid to the Owner upon the discharge of the surety obligations as set forth in Section 4. Nothing herein, however, shall obligate the Town to hold the Construction Fund or any cash posted as Replacement Surety in an interest bearing account, or if so held, to realize any minimum interest amount or rate of return on funds so deposited. Furthermore, Owner acknowledges the Town is restricted where and in what manner it can deposit funds.

2. ***Facility Construction.***

(a) Within eighteen (18) months following the date that the Building Permit is issued, Owner shall (i) construct the Facility in accordance with the approved construction drawings for the Facility attached hereto as Exhibit A, as such drawings may be amended to conform with the as-built drawings for the Facility and the Conditions, and (ii) obtain a Certificate of Compliance for the Facility.

(b) Owner shall deliver to Town a true, correct and complete copy of the as-built drawings for the Facility by the earlier of: (i) thirty (30) days following Owner's receipt of same, and (ii) ninety (90) days after the issuance of the Certificate of Compliance for the Facility.

3. ***Use of Surety.***

(a) In the event that Owner breaches Section 2 or fails to maintain the surety required pursuant to Section 1 (in any case, a "Default"), Town shall notify Owner thereof and Owner shall have sixty (60) days following its receipt of such notice to cure such Default to Town's reasonable satisfaction ("Cure"); *provided, however*, that if such Cure cannot reasonably be effected within such sixty (60) day period, Owner may request from the Town such additional time as is reasonably necessary, not to exceed an additional sixty (60) days, to effect such Cure, which request shall not be unreasonably denied, *provided* that, to the extent reasonably practicable, Owner is diligently pursuing same upon the expiration of the initial sixty (60) day period, and *provided further* that Owner shall have such time in addition to the foregoing cure period as is reasonably necessary to effect the Cure in the event that adverse weather conditions or seasonality makes effecting such Cure within the foregoing cure period not commercially reasonable. Owner, however, acknowledges and agrees that the period to cure any failure to maintain the surety required under Section 1 shall not be extended based on adverse weather conditions or seasonality.

(b) If Owner fails to Cure a Default in accordance with Section 3(a), then Town or its agents or contractors may (i) if the form of surety in place is a bond, invoke any and all available remedies provided or under the terms of said bond, or (ii) if the form of surety in place is cash or a letter of credit, enter onto the Site without further permission, notice or process, to commence such Cure using the proceeds of said cash or letter of credit, as applicable, to cover its costs attributable thereto. If the Town elects to enter onto the Site and effect a Cure using the proceeds of the Construction Fund or Replacement Surety, then upon Town's completion of such Cure, Owner's obligations under this Agreement (with the exception of those obligations set forth in Section 3(c)) shall be deemed discharged, this Agreement shall be deemed terminated and, if at the time that Town commenced such Cure in accordance with this Section 3(b), cash had been posted as the Construction Fund or as Replacement Surety, any such cash remaining after Town having effected such Cure (together with accrued interest, if any) shall be returned to Owner along with any other Replacement Surety, as applicable, within thirty (30) days after completion of such Cure. Owner acknowledges and agrees that its failure to Cure a Default in accordance with Section 3(a) shall constitute a violation of the Solar Law and the Conditions, and that in such event the Town shall be authorized to revoke building permits and any other approvals issued for the Facility without further permission, notice, or process.

(c) Any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety shall be used by Town solely to pay for the cost to effect a Cure pursuant to Section 3(b), including the amount of any reasonable attorneys' fees, if any, incurred by the Town in connection with such action. Other than the Construction Fund or any Replacement Surety, Owner shall have no security obligations to Town with respect to construction of the Facility; *provided, however*, that, in the event the cost to effect such Cure exceeds the amount of the Construction Fund or any Replacement Surety, Owner shall be responsible to reimburse Town for any such excess cost, *provided* that such excess cost is not as a result of Town using any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety for any reason other than to pay for effecting a Cure and such costs are reasonably documented and Town has delivered to Owner a true, correct and complete copy of such documentation. In the event that Town uses any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety for any reason other than to pay for effecting a Cure, Town shall reimburse such amount to Owner upon demand, *less* the amount of any reasonable attorneys' fees, if any, incurred by the Town in undertaking such action(s).

4. ***Discharge of Surety Obligations.*** On the Completion Date, and *provided* that at such time there is not a Default then in existence and continuing, Owner's obligations hereunder shall be deemed discharged, this Agreement shall be deemed terminated and the Construction Fund or Replacement Surety, or the balance thereof, if any, shall be returned to Owner by Town within thirty (30) days following the Completion Date.

5. ***Force Majeure.***

(a) Owner shall not be considered in breach of any obligation hereunder, and no Default shall be deemed to have occurred, to the extent that performance of the subject obligation is prevented or delayed by a Force Majeure Event (defined in Section 5(b)). Owner's obligation to perform the subject obligation hereunder shall be suspended during the tenure of the subject Force Majeure Event and Owner shall not be liable in damages or otherwise, nor shall

Town be permitted to demand any funds comprising or proceeds of the Construction Fund or any Replacement Surety, as applicable, for a failure of Owner to perform if and only to the extent that Owner is unable to perform or prevented from performing by the Force Majeure Event. As soon as reasonably possible after the occurrence of the Force Majeure Event, but no later than thirty (30) days following the date that Owner has knowledge that such occurrence qualifies or could qualify as a Force Majeure Event, Owner shall give Town written notice describing the particulars of the occurrence thereof and its estimated duration. Owner shall make commercially reasonable efforts to recover from the effects of the Force Majeure Event and shall resume performance of its obligations hereunder as soon as reasonably practicable.

(b) For purposes of this Agreement, "Force Majeure Event" means any circumstance not within Owner's reasonable control, but only if and to the extent that such event: (i) is not due to Owner's negligence or willful misconduct; and (ii) is not the result of any failure of Owner to perform any of its obligations hereunder; and (iii) did not occur as a result of Owner's actions or failure to act. Subject to the foregoing conditions, Force Majeure Events include: acts of God; war; acts of the public enemy; terrorism; riot; civil commotion; sabotage; fire; floods; landslide; volcanic eruption; epidemics; global pandemics; quarantine restrictions; embargos; and governmental authority decreed official state of emergency.

6. *Miscellaneous.*

(a) *Amendment and Waiver.* This Agreement may not be altered or amended, nor any rights hereunder waived, except by a written agreement executed by the Parties. No failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other (or further) exercise thereof.

(b) *Notices.* All notices, demands and other communications required or permitted hereunder ("Notices") shall be in writing and addressed as set forth below. A Notice shall be deemed made or given when personally delivered, three (3) business days after deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested, two (2) business days after being delivered to a courier guaranteeing overnight delivery. Either Party may, by notice so delivered to the other Party, change the address or individual to which delivery shall thereafter be made.

If to Owner:
Elmbrook Solar, LLC
c/o AMP Solar Development Inc.
1550 Wewatta Street, 4th Floor
Denver, Colorado 80202
Attn: Legal Department

with copies to:
legalnotices@amp.energy
and:
jdonald@amp.energy

If to Town:
Town of Schodack
265 Schuurman Road
Castleton, NY 12044
Attn: Town Attorney

with copies to:
Town Director of Planning
at the aforementioned address

(c) **No Assignment; Binding Effect; Third Parties.** This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that Owner may assign this Agreement without Town's prior consent to any of Owner's affiliates taking ownership of the Facility upon (i) notice of such assignment delivered to Town, and (ii) if the form of the surety in favor of the Town consists of a bond and/or letter of credit, the submission to the Town of an updated bond and/or letter of credit in the name of the Owner's affiliate to whom this Agreement is being assigned and which must provide the same protections to the Town. Any assignment in violation of the foregoing shall be void. For the avoidance of doubt, any change in ownership of Owner shall not be deemed an assignment hereunder. Subject to the foregoing, this Agreement is binding upon and inures to the benefit of the Parties and their respective agents, successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any third party any benefits, rights or remedies.

(d) **Governing Law; Venue; No Jury Trial; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. The Parties consent to exclusive venue and jurisdiction in the state and federal courts located in New York, New York. **TO THE EXTENT ALLOWED UNDER APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH REGARD TO ANY DISPUTE RELATED HERETO.** If any provision hereof is deemed by a court of competent jurisdiction to be unenforceable, in whole or in part, the scope of such provision shall be reduced to the extent necessary to make it enforceable or, if such reduction is not possible for any reason, such provision shall be severed from this Agreement entirely without effect upon the balance hereof.

(e) **Construction.** All Exhibits referred to herein are hereby incorporated by reference herein in their entirety. The headings of the Sections hereof and any listing of their contents are for convenience of reference only and shall not limit or otherwise affect any of the terms or provisions hereof. The Parties acknowledge that this Agreement is the result of negotiations between the Parties, each Party had equal bargaining power, and no provision hereof shall be construed against a Party as a result of the preparation hereof. All references herein to Sections, subsections and other subdivisions refer to the corresponding Sections, subsections and other subdivisions of or to this Agreement unless expressly provided otherwise. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular Section, subsection or other subdivision unless expressly so limited. The words "this Section" and "this subsection," and words of similar import, refer only to the Section or subsection hereof in which such words occur. The word "including" (in its various forms) means "including without limitation." Words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(f) **Integration; Execution.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior agreements, understandings and statements with respect thereto. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Facsimile or electronic signatures are valid and binding on the Parties.

The Parties have executed this Agreement to be effective as of the Effective Date.

TOWN:

TOWN OF SCHODACK

By: _____

Name: _____

Title: _____

OWNER:

ELMBROOK SOLAR, LLC

By: AMP Solar Development Inc., its Manager

By:  _____

Name: Nicole LeBlanc

Title: Authorized Signatory

**SOLAR FACILITY MAINTENANCE
SURETY AGREEMENT**

This Solar Facility Maintenance Surety Agreement (this “Agreement”), dated effective as of August __, 2021 (the “Effective Date”), is between the Town of Schodack (“Town”), and Elmbrook Solar, LLC, a New York limited liability company (“Owner”). Town and Owner may be referred to herein individually, as a “Party” and collectively, as the “Parties.”

Recitals

A. Owner intends to construct, operate and maintain a solar energy facility with battery storage, with an estimated capacity of 4.98 MWac and 8.3 MWdc and all related on-site improvements, including all associated accessory structures (collectively, the “Facility”) at 2191 Brookview Road, Schodack, Rensselaer County, NY (Tax Map No. 188.-6-15./1 AND 188.-6-Portion of 15) (the “Site”).

B. Section 219-39.3(C)(13)(a) of Town Code (Town Code Section 219-39.3 being referred to herein as the “Solar Law”) requires that Owner post a surety for purposes of maintenance of the Site, and to guarantee compliance with the conditions of the approvals by the Planning Board and the Town Board for the Facility (the “Conditions”). Maintenance of the Facility shall be addressed in a separate decommissioning agreement, such that a failure to maintain the Facility shall be grounds for decommissioning in accordance with the terms thereof.

C. Owner intends to post cash to satisfy the surety requirements under the Solar Law, and Town has determined that such surety is acceptable to satisfy the Solar Law, pursuant to the terms and conditions hereof.

Agreement

In consideration of the covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. ***Surety.***

(a) ***Cash.*** Prior to issuance of the building permit for the Facility (the “Building Permit”), Owner shall, in satisfaction of the surety requirements under the Solar Law, deposit with Town cash (the “Maintenance Fund”) in the amount of forty-three thousand, five hundred and forty-eight dollars (\$43,548.00) (the “Surety Amount”), which cash Town shall hold in trust for the sole purpose of Town’s performance under Section 3(b), if any, in accordance herewith. Subject to Section 1(b), the Maintenance Fund shall remain in place until the Facility is decommissioned, which for purposes of this Agreement shall mean the complete deconstruction of the Facility, including the removal of all structures and non-vegetative improvements (the “Surety Expiration Date”).

(b) ***Replacement Surety.*** At any time during the term hereof, Owner may replace the Maintenance Fund with: (i) a bond that cannot expire and which also meets all requirements of the Solar Law, in favor of the Town with a face amount equal to the Surety

Amount; (ii) a nonrenewable (or if renewable then providing for automatic renewal thereof such that the letter of credit is in effect at all time and which provides by its terms that the failure to renew or expiration of same shall constitute a default of the conditions of said letter of credit) and irrevocable letter of credit for the Surety Amount in a form and from a financing institution reasonably acceptable to the Parties; or (iii) any combination of the foregoing, including cash, such that the aggregate amount thereof is not less than the Surety Amount (in any case, the "Replacement Surety"). Any Replacement Surety shall remain in place until the Surety Expiration Date. At any time, Owner may replace the Replacement Surety with any one or more of the foregoing, including cash, *provided* that the aggregate amount of the Replacement Surety is an amount not less than the Surety Amount. If at any time Owner replaces the Maintenance Fund or any Replacement Surety, in whole or in part, with another Replacement Surety pursuant to the foregoing, Town shall return to Owner or cause to be returned to Owner the replaced surety (*i.e.*, cash or any bond or letter of credit) within fifteen (15) days following such replacement.

(c) ***Interest on Cash.*** To the extent that the Maintenance Fund or any cash posted as Replacement Surety is held by a third party for the benefit of Town in an interest bearing account, any interest accruing on such funds shall be the property of Owner and shall be paid to the Owner upon the discharge of the surety obligations as set forth in Section 4. Nothing herein, however, shall obligate the Town to hold the Maintenance Fund or any cash posted as Replacement Surety in an interest bearing account, or if so held, to realize any minimum interest amount or rate of return on funds so deposited. Furthermore, Owner acknowledges the Town is restricted where and in what manner it can deposit funds.

2. ***Site Maintenance.***

(a) Following delivery to Owner of the Certificate of Compliance for the Facility by the Town's building department until the Facility is decommissioned, Owner shall assure that the Conditions are satisfied and the Site, including, but not limited to, the landscaping thereof, existing vegetative growth, screening, lighting, signage, access and interior roads, and security fencing, is maintained in accordance with the as-built drawings for the Facility and the requirements of the Solar Law.

(b) Owner shall deliver to Town a true, correct and complete copy of the as-built drawings for the Facility by the earlier of: (i) thirty (30) days following Owner's receipt of same, and (ii) ninety (90) days after the issuance of the Certificate of Compliance for the Facility.

3. ***Use of Surety.***

(a) In the event that Owner breaches Section 2 or fails to maintain the surety required pursuant to Section 1 (in any case, a "Default"), Town shall notify Owner thereof and Owner shall have sixty (60) days following its receipt of such notice to cure such Default to Town's reasonable satisfaction ("Cure"); *provided, however*, that if such Cure cannot reasonably be effected within such sixty (60) day period, Owner may request from the Town such additional time as is reasonably necessary, not to exceed an additional sixty (60) days, to effect such Cure, which request shall not be unreasonably denied, *provided* that, to the extent reasonably practicable, Owner is diligently pursuing same upon the expiration of the initial sixty (60) day period, and *provided further* that Owner shall have such time in addition to the foregoing cure period as is

reasonably necessary to effect the Cure in the event that adverse weather conditions or seasonality makes effecting such Cure within the foregoing cure period not commercially reasonable. Owner, however, acknowledges and agrees that the period to cure any failure to maintain the surety required under Section 1 shall not be extended based on adverse weather conditions or seasonality.

(b) If Owner fails to Cure a Default in accordance with Section 3(a), then Town or its agents or contractors may, at its sole option, either (i) enter onto the Site without further permission, notice or process, to commence such Cure using the proceeds of the Maintenance Fund or the Replacement Surety, as applicable, to cover its costs attributable thereto, or (ii) revoke the Certificate of Compliance issued for the Facility and Site without further permissions, notice, or process. If the Town elects to enter onto the Site and effect a Cure using the proceeds of the Maintenance Fund or Replacement Surety, then upon Town's completion of such Cure, Owner's obligations under this Agreement shall be deemed discharged, this Agreement shall be deemed terminated and, if at the time that Town commenced such Cure in accordance with this Section 3(b), cash had been posted as the Maintenance Fund or as Replacement Surety, any such cash remaining after Town having effected such Cure (together with accrued interest, if any) shall be returned to Owner along with any other Replacement Surety, as applicable, within thirty (30) days after completion of such Cure. Owner acknowledges and agrees that its failure to Cure a Default in accordance with Section 3(a) shall constitute a violation of the Solar Law and the Conditions, and that in such event the Town shall be authorized to revoke the Certificate of Compliance issued for the Facility and Site without further permission, notice, or process, and, at its sole option, may elect to proceed to decommission the Facility.

(c) Any funds comprising or that are the proceeds of the Maintenance Fund or any Replacement Surety shall be used by Town solely to pay for the cost to effect a Cure pursuant to Section 3(b), including the amount of any reasonable attorneys' fees, if any, incurred by the Town in connection with such action. Other than the Maintenance Fund or any Replacement Surety, Owner shall have no security obligations to Town with respect to the maintenance of the Site. In the event that Town uses any funds comprising or that are the proceeds of the Maintenance Fund or any Replacement Surety for any reason other than in connection with undertaking any action authorized under Section 3(b) above, the Town shall reimburse such amount to Owner upon demand, *less* the amount of any reasonable attorneys' fees, if any, incurred by the Town in undertaking such action(s).

4. ***Discharge of Surety Obligations.*** On the Surety Expiration Date, and *provided* that at such time there is not a Default then in existence and continuing, Owner's obligations hereunder shall be deemed discharged, this Agreement shall be deemed terminated and the Maintenance Fund or Replacement Surety, or the balance thereof, if any, shall be returned to Owner by Town within thirty (30) days following the Surety Expiration Date.

5. ***Force Majeure.***

(a) Owner shall not be considered in breach of any obligation hereunder, and no Default shall be deemed to have occurred, to the extent that performance of the subject obligation is prevented or delayed by a Force Majeure Event (defined in Section 5(b)). Owner's obligation to perform the subject obligation hereunder shall be suspended during the tenure of the subject Force Majeure Event and Owner shall not be liable in damages or otherwise, nor shall

Town be permitted to demand any funds comprising or proceeds of the Maintenance Fund or any Replacement Surety, as applicable, for a failure of Owner to perform if and only to the extent that Owner is unable to perform or prevented from performing by the Force Majeure Event. As soon as reasonably possible after the occurrence of the Force Majeure Event, but no later than thirty (30) days following the date that Owner has knowledge that such occurrence qualifies or could qualify as a Force Majeure Event, Owner shall give Town written notice describing the particulars of the occurrence thereof and its estimated duration. Owner shall make commercially reasonable efforts to recover from the effects of the Force Majeure Event and shall resume performance of its obligations hereunder as soon as reasonably practicable.

(b) For purposes of this Agreement, "Force Majeure Event" means any circumstance not within Owner's reasonable control, but only if and to the extent that such event: (i) is not due to Owner's negligence or willful misconduct; and (ii) is not the result of any failure of Owner to perform any of its obligations hereunder; and (iii) did not occur as a result of Owner's actions or failure to act. Subject to the foregoing conditions, Force Majeure Events include: acts of God; war; acts of the public enemy; terrorism; riot; civil commotion; sabotage; fire; floods; landslide; volcanic eruption; epidemics; global pandemics; quarantine restrictions; embargos; and governmental authority decreed official state of emergency.

6. *Miscellaneous.*

(a) *Amendment and Waiver.* This Agreement may not be altered or amended, nor any rights hereunder waived, except by a written agreement executed by the Parties. No failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other (or further) exercise thereof.

(b) *Notices.* All notices, demands and other communications required or permitted hereunder ("Notices") shall be in writing and addressed as set forth below. A Notice shall be deemed made or given when personally delivered, three (3) business days after deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested, two (2) business days after being delivered to a courier guaranteeing overnight delivery. Either Party may, by notice so delivered to the other Party, change the address or individual to which delivery shall thereafter be made.

If to Owner:

Elmbrook Solar, LLC
c/o AMP Solar Development Inc.
1550 Wewatta Street, 4th Floor
Denver, Colorado 80202
Attn: Legal Department

with copies to:

legalnotices@amp.energy

and:

jdonald@amp.energy

If to Town:

Town of Schodack
265 Schuurman Road
Castleton, NY 12044
Attn: Town Attorney

with copies to:

Town Director of Planning

at the aforementioned address

(c) **No Assignment; Binding Effect; Third Parties.** This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that Owner may assign this Agreement without Town's prior consent to any of Owner's affiliates taking ownership of the Facility upon (i) notice of such assignment delivered to Town, and (ii) if the form of the surety in favor of the Town consists of a bond and/or letter of credit, the submission to the Town of an updated bond and/or letter of credit in the name of the Owner's affiliate to whom this Agreement is being assigned and which must provide the same protections to the Town. Any assignment in violation of the foregoing shall be void. For the avoidance of doubt, any change in ownership of Owner shall not be deemed an assignment hereunder. Subject to the foregoing, this Agreement is binding upon and inures to the benefit of the Parties and their respective agents, successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any third party any benefits, rights or remedies.

(d) **Governing Law; Venue; No Jury Trial; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. The Parties consent to exclusive venue and jurisdiction in the state and federal courts located in New York, New York. **TO THE EXTENT ALLOWED UNDER APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH REGARD TO ANY DISPUTE RELATED HERETO.** If any provision hereof is deemed by a court of competent jurisdiction to be unenforceable, in whole or in part, the scope of such provision shall be reduced to the extent necessary to make it enforceable or, if such reduction is not possible for any reason, such provision shall be severed from this Agreement entirely without effect upon the balance hereof.

(e) **Construction.** The headings of the Sections hereof and any listing of their contents are for convenience of reference only and shall not limit or otherwise affect any of the terms or provisions hereof. The Parties acknowledge that this Agreement is the result of negotiations between the Parties, each Party had equal bargaining power, and no provision hereof shall be construed against a Party as a result of the preparation hereof. All references herein to Sections, subsections and other subdivisions refer to the corresponding Sections, subsections and other subdivisions of or to this Agreement unless expressly provided otherwise. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular Section, subsection or other subdivision unless expressly so limited. The words "this Section" and "this subsection," and words of similar import, refer only to the Section or subsection hereof in which such words occur. The word "including" (in its various forms) means "including without limitation." Words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(f) **Integration; Execution.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior agreements, understandings and statements with respect thereto. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Facsimile or electronic signatures are valid and binding on the Parties.

[Signature page follows.]

The Parties have executed this Agreement to be effective as of the Effective Date.

TOWN:

OWNER:

TOWN OF SCHODACK

ELMBROOK SOLAR, LLC

By: AMP Solar Development Inc., its Manager

By: _____

By:  _____

Name: _____

Name: Nicole LeBlanc

Title: _____

Title: Authorized Signatory

**SOLAR FACILITY CONSTRUCTION
SURETY AGREEMENT**

This Solar Facility Construction Surety Agreement (this "Agreement"), dated effective as of August __, 2021 (the "Effective Date"), is between the Town of Schodack ("Town"), and White River Solar, LLC, a New York limited liability company ("Owner"). Town and Owner may be referred to herein individually, as a "Party" and collectively, as the "Parties."

Recitals

A. Owner intends to construct, operate and maintain a solar energy facility with an estimated capacity of 4.98 MWac and 7.49 MWdc and all related on-site improvements, including all associated accessory structures (collectively, the "Facility") at 2270 River Road, Schodack, Rensselaer County, NY (Tax Map No. 188.-7-Portions of 1) (the "Site").

B. Section 219-39.3(C)(13)(a) of Town Code (Town Code Section 219-39.3 being referred to herein as the "Solar Law") requires that Owner post a surety for purposes of construction of the Facility, and to guarantee compliance with the conditions of the approvals by the Planning Board and the Town Board for the Facility (the "Conditions").

C. Owner intends to post cash to satisfy the surety requirements under the Solar Law, and Town has determined that such surety is acceptable to satisfy the Solar Law, pursuant to the terms and conditions hereof.

Agreement

In consideration of the covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. **Surety.**

(a) **Cash.** Prior to issuance of the building permit for the Facility (the "Building Permit"), Owner shall, in satisfaction of the surety requirements under the Solar Law, deposit with Town cash (the "Construction Fund") in the amount of six-hundred and thirty thousand dollars (\$630,000) (the "Surety Amount"), which cash Town shall hold in trust for the sole purpose of Town's performance under Section 3(b), if any, in accordance herewith. Subject to Section 1(b), the Construction Fund shall remain in place until the first anniversary of the date that the Certificate of Compliance for the Facility is issued by the Town's building department (such one-year anniversary date being referred to herein as the "Completion Date").

(b) **Replacement Surety.** At any time during the term hereof, Owner may replace the Construction Fund with: (i) a bond that cannot expire and which also meets all requirements of the Solar Law, in favor of the Town with a face amount equal to the Surety Amount; (ii) a nonrenewable (or if renewable then providing for automatic renewal thereof such that the letter of credit is in effect at all times and which provides by its terms that the failure to renew or expiration of same shall constitute a default of the conditions of said letter of credit) and irrevocable letter of credit for the Surety Amount in a form and from a financing institution

reasonably acceptable to the Parties; or (iii) any combination of the foregoing, including cash, such that the aggregate amount thereof is not less than the Surety Amount (in any case, the "Replacement Surety"). Any Replacement Surety shall remain in place until the Completion Date. At any time, Owner may replace the Replacement Surety with any one or more of the foregoing, including cash, *provided* that the aggregate amount of the Replacement Surety is an amount not less than the Surety Amount. If at any time Owner replaces the Construction Fund or any Replacement Surety, in whole or in part, with another Replacement Surety pursuant to the foregoing, Town shall return to Owner or cause to be returned to Owner the replaced surety (*i.e.*, cash or any bond or letter of credit) within fifteen (15) days following such replacement.

(c) ***Interest on Cash.*** To the extent that the Construction Fund or any cash posted as Replacement Surety is held by a third party for the benefit of Town in an interest bearing account, any interest accruing on such funds shall be the property of Owner and shall be paid to the Owner upon the discharge of the surety obligations as set forth in Section 4. Nothing herein, however, shall obligate the Town to hold the Construction Fund or any cash posted as Replacement Surety in an interest bearing account, or if so held, to realize any minimum interest amount or rate of return on funds so deposited. Furthermore, Owner acknowledges the Town is restricted where and in what manner it can deposit funds.

2. ***Facility Construction.***

(a) Within eighteen (18) months following the date that the Building Permit is issued, Owner shall (i) construct the Facility in accordance with the approved construction drawings for the Facility attached hereto as Exhibit A, as such drawings may be amended to conform with the as-built drawings for the Facility and the Conditions, and (ii) obtain a Certificate of Compliance for the Facility.

(b) Owner shall deliver to Town a true, correct and complete copy of the as-built drawings for the Facility by the earlier of: (i) thirty (30) days following Owner's receipt of same, and (ii) ninety (90) days after the issuance of the Certificate of Compliance for the Facility.

3. ***Use of Surety.***

(a) In the event that Owner breaches Section 2 or fails to maintain the surety required pursuant to Section 1 (in any case, a "Default"), Town shall notify Owner thereof and Owner shall have sixty (60) days following its receipt of such notice to cure such Default to Town's reasonable satisfaction ("Cure"); *provided, however*, that if such Cure cannot reasonably be effected within such sixty (60) day period, Owner may request from the Town such additional time as is reasonably necessary, not to exceed an additional sixty (60) days, to effect such Cure, which request shall not be unreasonably denied, *provided* that, to the extent reasonably practicable, Owner is diligently pursuing same upon the expiration of the initial sixty (60) day period, and *provided further* that Owner shall have such time in addition to the foregoing cure period as is reasonably necessary to effect the Cure in the event that adverse weather conditions or seasonality makes effecting such Cure within the foregoing cure period not commercially reasonable. Owner, however, acknowledges and agrees that the period to cure any failure to maintain the surety required under Section 1 shall not be extended based on adverse weather conditions or seasonality.

(b) If Owner fails to Cure a Default in accordance with Section 3(a), then Town or its agents or contractors may (i) if the form of surety in place is a bond, invoke any and all available remedies provided or under the terms of said bond, or (ii) if the form of surety in place is cash or a letter of credit, enter onto the Site without further permission, notice or process, to commence such Cure using the proceeds of said cash or letter of credit, as applicable, to cover its costs attributable thereto. If the Town elects to enter onto the Site and effect a Cure using the proceeds of the Construction Fund or Replacement Surety, then upon Town's completion of such Cure, Owner's obligations under this Agreement (with the exception of those obligations set forth in Section 3(c)) shall be deemed discharged, this Agreement shall be deemed terminated and, if at the time that Town commenced such Cure in accordance with this Section 3(b), cash had been posted as the Construction Fund or as Replacement Surety, any such cash remaining after Town having effected such Cure (together with accrued interest, if any) shall be returned to Owner along with any other Replacement Surety, as applicable, within thirty (30) days after completion of such Cure. Owner acknowledges and agrees that its failure to Cure a Default in accordance with Section 3(a) shall constitute a violation of the Solar Law and the Conditions, and that in such event the Town shall be authorized to revoke building permits and any other approvals issued for the Facility without further permission, notice, or process.

(c) Any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety shall be used by Town solely to pay for the cost to effect a Cure pursuant to Section 3(b), including the amount of any reasonable attorneys' fees, if any, incurred by the Town in connection with such action. Other than the Construction Fund or any Replacement Surety, Owner shall have no security obligations to Town with respect to construction of the Facility; *provided, however*, that, in the event the cost to effect such Cure exceeds the amount of the Construction Fund or any Replacement Surety, Owner shall be responsible to reimburse Town for any such excess cost, *provided* that such excess cost is not as a result of Town using any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety for any reason other than to pay for effecting a Cure and such costs are reasonably documented and Town has delivered to Owner a true, correct and complete copy of such documentation. In the event that Town uses any funds comprising or that are the proceeds of the Construction Fund or any Replacement Surety for any reason other than to pay for effecting a Cure, Town shall reimburse such amount to Owner upon demand, *less* the amount of any reasonable attorneys' fees, if any, incurred by the Town in undertaking such action(s).

4. ***Discharge of Surety Obligations.*** On the Completion Date, and *provided* that at such time there is not a Default then in existence and continuing, Owner's obligations hereunder shall be deemed discharged, this Agreement shall be deemed terminated and the Construction Fund or Replacement Surety, or the balance thereof, if any, shall be returned to Owner by Town within thirty (30) days following the Completion Date.

5. ***Force Majeure.***

(a) Owner shall not be considered in breach of any obligation hereunder, and no Default shall be deemed to have occurred, to the extent that performance of the subject obligation is prevented or delayed by a Force Majeure Event (defined in Section 5(b)). Owner's obligation to perform the subject obligation hereunder shall be suspended during the tenure of the subject Force Majeure Event and Owner shall not be liable in damages or otherwise, nor shall

Town be permitted to demand any funds comprising or proceeds of the Construction Fund or any Replacement Surety, as applicable, for a failure of Owner to perform if and only to the extent that Owner is unable to perform or prevented from performing by the Force Majeure Event. As soon as reasonably possible after the occurrence of the Force Majeure Event, but no later than thirty (30) days following the date that Owner has knowledge that such occurrence qualifies or could qualify as a Force Majeure Event, Owner shall give Town written notice describing the particulars of the occurrence thereof and its estimated duration. Owner shall make commercially reasonable efforts to recover from the effects of the Force Majeure Event and shall resume performance of its obligations hereunder as soon as reasonably practicable.

(b) For purposes of this Agreement, "Force Majeure Event" means any circumstance not within Owner's reasonable control, but only if and to the extent that such event: (i) is not due to Owner's negligence or willful misconduct; and (ii) is not the result of any failure of Owner to perform any of its obligations hereunder; and (iii) did not occur as a result of Owner's actions or failure to act. Subject to the foregoing conditions, Force Majeure Events include: acts of God; war; acts of the public enemy; terrorism; riot; civil commotion; sabotage; fire; floods; landslide; volcanic eruption; epidemics; global pandemics; quarantine restrictions; embargos; and governmental authority decreed official state of emergency.

6. *Miscellaneous.*

(a) *Amendment and Waiver.* This Agreement may not be altered or amended, nor any rights hereunder waived, except by a written agreement executed by the Parties. No failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other (or further) exercise thereof.

(b) *Notices.* All notices, demands and other communications required or permitted hereunder ("Notices") shall be in writing and addressed as set forth below. A Notice shall be deemed made or given when personally delivered, three (3) business days after deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested, two (2) business days after being delivered to a courier guaranteeing overnight delivery. Either Party may, by notice so delivered to the other Party, change the address or individual to which delivery shall thereafter be made.

If to Owner:

White River Solar, LLC
c/o AMP Solar Development Inc.
1550 Wewatta Street, 4th Floor
Denver, Colorado 80202
Attn: Legal Department

with copies to:

legalnotices@amp.energy

and:

jdonald@amp.energy

If to Town:

Town of Schodack
265 Schuurman Road
Castleton, NY 12044
Attn: Town Attorney

with copies to:

Town Director of Planning

at the aforementioned address

(c) **No Assignment; Binding Effect; Third Parties.** This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that Owner may assign this Agreement without Town's prior consent to any of Owner's affiliates taking ownership of the Facility upon (i) notice of such assignment delivered to Town, and (ii) if the form of the surety in favor of the Town consists of a bond and/or letter of credit, the submission to the Town of an updated bond and/or letter of credit in the name of the Owner's affiliate to whom this Agreement is being assigned and which must provide the same protections to the Town. Any assignment in violation of the foregoing shall be void. For the avoidance of doubt, any change in ownership of Owner shall not be deemed an assignment hereunder. Subject to the foregoing, this Agreement is binding upon and inures to the benefit of the Parties and their respective agents, successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any third party any benefits, rights or remedies.

(d) **Governing Law; Venue; No Jury Trial; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. The Parties consent to exclusive venue and jurisdiction in the state and federal courts located in New York, New York. **TO THE EXTENT ALLOWED UNDER APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH REGARD TO ANY DISPUTE RELATED HERETO.** If any provision hereof is deemed by a court of competent jurisdiction to be unenforceable, in whole or in part, the scope of such provision shall be reduced to the extent necessary to make it enforceable or, if such reduction is not possible for any reason, such provision shall be severed from this Agreement entirely without effect upon the balance hereof.

(e) **Construction.** All Exhibits referred to herein are hereby incorporated by reference herein in their entirety. The headings of the Sections hereof and any listing of their contents are for convenience of reference only and shall not limit or otherwise affect any of the terms or provisions hereof. The Parties acknowledge that this Agreement is the result of negotiations between the Parties, each Party had equal bargaining power, and no provision hereof shall be construed against a Party as a result of the preparation hereof. All references herein to Sections, subsections and other subdivisions refer to the corresponding Sections, subsections and other subdivisions of or to this Agreement unless expressly provided otherwise. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular Section, subsection or other subdivision unless expressly so limited. The words "this Section" and "this subsection," and words of similar import, refer only to the Section or subsection hereof in which such words occur. The word "including" (in its various forms) means "including without limitation." Words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(f) **Integration; Execution.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior agreements, understandings and statements with respect thereto. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Facsimile or electronic signatures are valid and binding on the Parties.

The Parties have executed this Agreement to be effective as of the Effective Date.

TOWN:

TOWN OF SCHODACK

By: _____

Name: _____

Title: _____

OWNER:

WHITE RIVER SOLAR, LLC

By: AMP Solar Development Inc., its Manager

By:  _____

Name: Nicole LeBlanc

Title: Authorized Signatory

**SOLAR FACILITY MAINTENANCE
SURETY AGREEMENT**

This Solar Facility Maintenance Surety Agreement (this “Agreement”), dated effective as of August __, 2021 (the “Effective Date”), is between the Town of Schodack (“Town”), and White River Solar, LLC, a New York limited liability company (“Owner”). Town and Owner may be referred to herein individually, as a “Party” and collectively, as the “Parties.”

Recitals

A. Owner intends to construct, operate and maintain a solar energy facility with an estimated capacity of 4.98 MWac and 7.49 MWdc and all related on-site improvements, including all associated accessory structures (collectively, the “Facility”) at 2270 River Road, Schodack, Rensselaer County, NY (Tax Map No. 188.-7-Portions of 1) (the “Site”).

B. Section 219-39.3(C)(13)(a) of Town Code (Town Code Section 219-39.3 being referred to herein as the “Solar Law”) requires that Owner post a surety for purposes of maintenance of the Site, and to guarantee compliance with the conditions of the approvals by the Planning Board and the Town Board for the Facility (the “Conditions”). Maintenance of the Facility shall be addressed in a separate decommissioning agreement, such that a failure to maintain the Facility shall be grounds for decommissioning in accordance with the terms thereof.

C. Owner intends to post cash to satisfy the surety requirements under the Solar Law, and Town has determined that such surety is acceptable to satisfy the Solar Law, pursuant to the terms and conditions hereof.

Agreement

In consideration of the covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

1. ***Surety.***

(a) ***Cash.*** Prior to issuance of the building permit for the Facility (the “Building Permit”), Owner shall, in satisfaction of the surety requirements under the Solar Law, deposit with Town cash (the “Maintenance Fund”) in the amount of forty-two thousand, two hundred and forty dollars (\$42,240.00) (the “Surety Amount”), which cash Town shall hold in trust for the sole purpose of Town’s performance under Section 3(b), if any, in accordance herewith. Subject to Section 1(b), the Maintenance Fund shall remain in place until the Facility is decommissioned, which for purposes of this Agreement shall mean the complete deconstruction of the Facility, including the removal of all structures and non-vegetative improvements (the “Surety Expiration Date”).

(b) ***Replacement Surety.*** At any time during the term hereof, Owner may replace the Maintenance Fund with: (i) a bond that cannot expire and which also meets all requirements of the Solar Law, in favor of the Town with a face amount equal to the Surety Amount; (ii) a nonrenewable (or if renewable then providing for automatic renewal thereof such

that the letter of credit is in effect at all time and which provides by its terms that the failure to renew or expiration of same shall constitute a default of the conditions of said letter of credit) and irrevocable letter of credit for the Surety Amount in a form and from a financing institution reasonably acceptable to the Parties; or (iii) any combination of the foregoing, including cash, such that the aggregate amount thereof is not less than the Surety Amount (in any case, the "Replacement Surety"). Any Replacement Surety shall remain in place until the Surety Expiration Date. At any time, Owner may replace the Replacement Surety with any one or more of the foregoing, including cash, *provided* that the aggregate amount of the Replacement Surety is an amount not less than the Surety Amount. If at any time Owner replaces the Maintenance Fund or any Replacement Surety, in whole or in part, with another Replacement Surety pursuant to the foregoing, Town shall return to Owner or cause to be returned to Owner the replaced surety (*i.e.*, cash or any bond or letter of credit) within fifteen (15) days following such replacement.

(c) ***Interest on Cash.*** To the extent that the Maintenance Fund or any cash posted as Replacement Surety is held by a third party for the benefit of Town in an interest bearing account, any interest accruing on such funds shall be the property of Owner and shall be paid to the Owner upon the discharge of the surety obligations as set forth in Section 4. Nothing herein, however, shall obligate the Town to hold the Maintenance Fund or any cash posted as Replacement Surety in an interest bearing account, or if so held, to realize any minimum interest amount or rate of return on funds so deposited. Furthermore, Owner acknowledges the Town is restricted where and in what manner it can deposit funds.

2. ***Site Maintenance.***

(a) Following delivery to Owner of the Certificate of Compliance for the Facility by the Town's building department until the Facility is decommissioned, Owner shall assure that the Conditions are satisfied and the Site, including, but not limited to, the landscaping thereof, existing vegetative growth, screening, lighting, signage, access and interior roads, and security fencing, is maintained in accordance with the as-built drawings for the Facility and the requirements of the Solar Law.

(b) Owner shall deliver to Town a true, correct and complete copy of the as-built drawings for the Facility by the earlier of: (i) thirty (30) days following Owner's receipt of same, and (ii) ninety (90) days after the issuance of the Certificate of Compliance for the Facility.

3. ***Use of Surety.***

(a) In the event that Owner breaches Section 2 or fails to maintain the surety required pursuant to Section 1 (in any case, a "Default"), Town shall notify Owner thereof and Owner shall have sixty (60) days following its receipt of such notice to cure such Default to Town's reasonable satisfaction ("Cure"); *provided, however*, that if such Cure cannot reasonably be effected within such sixty (60) day period, Owner may request from the Town such additional time as is reasonably necessary, not to exceed an additional sixty (60) days, to effect such Cure, which request shall not be unreasonably denied, *provided* that, to the extent reasonably practicable, Owner is diligently pursuing same upon the expiration of the initial sixty (60) day period, and *provided further* that Owner shall have such time in addition to the foregoing cure period as is reasonably necessary to effect the Cure in the event that adverse weather conditions or seasonality

makes effecting such Cure within the foregoing cure period not commercially reasonable. Owner, however, acknowledges and agrees that the period to cure any failure to maintain the surety required under Section 1 shall not be extended based on adverse weather conditions or seasonality.

(b) If Owner fails to Cure a Default in accordance with Section 3(a), then Town or its agents or contractors may, at its sole option, either (i) enter onto the Site without further permission, notice or process, to commence such Cure using the proceeds of the Maintenance Fund or the Replacement Surety, as applicable, to cover its costs attributable thereto, or (ii) revoke the Certificate of Compliance issued for the Facility and Site without further permissions, notice, or process. If the Town elects to enter onto the Site and effect a Cure using the proceeds of the Maintenance Fund or Replacement Surety, then upon Town's completion of such Cure, Owner's obligations under this Agreement shall be deemed discharged, this Agreement shall be deemed terminated and, if at the time that Town commenced such Cure in accordance with this Section 3(b), cash had been posted as the Maintenance Fund or as Replacement Surety, any such cash remaining after Town having effected such Cure (together with accrued interest, if any) shall be returned to Owner along with any other Replacement Surety, as applicable, within thirty (30) days after completion of such Cure. Owner acknowledges and agrees that its failure to Cure a Default in accordance with Section 3(a) shall constitute a violation of the Solar Law and the Conditions, and that in such event the Town shall be authorized to revoke the Certificate of Compliance issued for the Facility and Site without further permission, notice, or process, and, at its sole option, may elect to proceed to decommission the Facility.

(c) Any funds comprising or that are the proceeds of the Maintenance Fund or any Replacement Surety shall be used by Town solely to pay for the cost to effect a Cure pursuant to Section 3(b), including the amount of any reasonable attorneys' fees, if any, incurred by the Town in connection with such action. Other than the Maintenance Fund or any Replacement Surety, Owner shall have no security obligations to Town with respect to the maintenance of the Site. In the event that Town uses any funds comprising or that are the proceeds of the Maintenance Fund or any Replacement Surety for any reason other than in connection with undertaking any action authorized under Section 3(b) above, the Town shall reimburse such amount to Owner upon demand, less the amount of any reasonable attorneys' fees, if any, incurred by the Town in undertaking such action(s).

4. ***Discharge of Surety Obligations.*** On the Surety Expiration Date, and *provided* that at such time there is not a Default then in existence and continuing, Owner's obligations hereunder shall be deemed discharged, this Agreement shall be deemed terminated and the Maintenance Fund or Replacement Surety, or the balance thereof, if any, shall be returned to Owner by Town within thirty (30) days following the Surety Expiration Date.

5. ***Force Majeure.***

(a) Owner shall not be considered in breach of any obligation hereunder, and no Default shall be deemed to have occurred, to the extent that performance of the subject obligation is prevented or delayed by a Force Majeure Event (defined in Section 5(b)). Owner's obligation to perform the subject obligation hereunder shall be suspended during the tenure of the subject Force Majeure Event and Owner shall not be liable in damages or otherwise, nor shall Town be permitted to demand any funds comprising or proceeds of the Maintenance Fund or any

Replacement Surety, as applicable, for a failure of Owner to perform if and only to the extent that Owner is unable to perform or prevented from performing by the Force Majeure Event. As soon as reasonably possible after the occurrence of the Force Majeure Event, but no later than thirty (30) days following the date that Owner has knowledge that such occurrence qualifies or could qualify as a Force Majeure Event, Owner shall give Town written notice describing the particulars of the occurrence thereof and its estimated duration. Owner shall make commercially reasonable efforts to recover from the effects of the Force Majeure Event and shall resume performance of its obligations hereunder as soon as reasonably practicable.

(b) For purposes of this Agreement, "Force Majeure Event" means any circumstance not within Owner's reasonable control, but only if and to the extent that such event: (i) is not due to Owner's negligence or willful misconduct; and (ii) is not the result of any failure of Owner to perform any of its obligations hereunder; and (iii) did not occur as a result of Owner's actions or failure to act. Subject to the foregoing conditions, Force Majeure Events include: acts of God; war; acts of the public enemy; terrorism; riot; civil commotion; sabotage; fire; floods; landslide; volcanic eruption; epidemics; global pandemics; quarantine restrictions; embargos; and governmental authority decreed official state of emergency.

6. *Miscellaneous.*

(a) *Amendment and Waiver.* This Agreement may not be altered or amended, nor any rights hereunder waived, except by a written agreement executed by the Parties. No failure or delay by a Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other (or further) exercise thereof.

(b) *Notices.* All notices, demands and other communications required or permitted hereunder ("Notices") shall be in writing and addressed as set forth below. A Notice shall be deemed made or given when personally delivered, three (3) business days after deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested, two (2) business days after being delivered to a courier guaranteeing overnight delivery. Either Party may, by notice so delivered to the other Party, change the address or individual to which delivery shall thereafter be made.

If to Owner:

White River Solar, LLC
c/o AMP Solar Development Inc.
1550 Wewatta Street, 4th Floor
Denver, Colorado 80202
Attn: Legal Department

with copies to:

legalnotices@amp.energy

and:

jdonald@amp.energy

If to Town:

Town of Schodack
265 Schuurman Road
Castleton, NY 12044
Attn: Town Attorney

with copies to:

Town Director of Planning

at the aforementioned address

(c) **No Assignment; Binding Effect; Third Parties.** This Agreement may not be assigned by either Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed; *provided, however*, that Owner may assign this Agreement without Town's prior consent to any of Owner's affiliates taking ownership of the Facility upon (i) notice of such assignment delivered to Town, and (ii) if the form of the surety in favor of the Town consists of a bond and/or letter of credit, the submission to the Town of an updated bond and/or letter of credit in the name of the Owner's affiliate to whom this Agreement is being assigned and which must provide the same protections to the Town. Any assignment in violation of the foregoing shall be void. For the avoidance of doubt, any change in ownership of Owner shall not be deemed an assignment hereunder. Subject to the foregoing, this Agreement is binding upon and inures to the benefit of the Parties and their respective agents, successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any third party any benefits, rights or remedies.

(d) **Governing Law; Venue; No Jury Trial; Severability.** This Agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to its conflict of laws principles. The Parties consent to exclusive venue and jurisdiction in the state and federal courts located in New York, New York. **TO THE EXTENT ALLOWED UNDER APPLICABLE LAW, EACH PARTY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH REGARD TO ANY DISPUTE RELATED HERETO.** If any provision hereof is deemed by a court of competent jurisdiction to be unenforceable, in whole or in part, the scope of such provision shall be reduced to the extent necessary to make it enforceable or, if such reduction is not possible for any reason, such provision shall be severed from this Agreement entirely without effect upon the balance hereof.

(e) **Construction.** The headings of the Sections hereof and any listing of their contents are for convenience of reference only and shall not limit or otherwise affect any of the terms or provisions hereof. The Parties acknowledge that this Agreement is the result of negotiations between the Parties, each Party had equal bargaining power, and no provision hereof shall be construed against a Party as a result of the preparation hereof. All references herein to Sections, subsections and other subdivisions refer to the corresponding Sections, subsections and other subdivisions of or to this Agreement unless expressly provided otherwise. The words "this Agreement," "herein," "hereby," "hereunder" and "hereof," and words of similar import, refer to this Agreement as a whole and not to any particular Section, subsection or other subdivision unless expressly so limited. The words "this Section" and "this subsection," and words of similar import, refer only to the Section or subsection hereof in which such words occur. The word "including" (in its various forms) means "including without limitation." Words, terms and titles (including terms defined herein) in the singular form shall be construed to include the plural and vice versa, unless the context otherwise requires.

(f) **Integration; Execution.** This Agreement contains the entire agreement between the Parties concerning the subject matter hereof and supersedes all prior agreements, understandings and statements with respect thereto. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Facsimile or electronic signatures are valid and binding on the Parties.

[Signature page follows.]

The Parties have executed this Agreement to be effective as of the Effective Date.

TOWN:

OWNER:

TOWN OF SCHODACK

WHITE RIVER SOLAR, LLC

By: AMP Solar Development Inc., its Manager

By: _____

By:  _____

Name: _____

Name: Nicole LeBlanc

Title: _____

Title: Authorized Signatory