

DEVELOPER'S AGREEMENT

THIS DEVELOPER'S AGREEMENT, (this "Agreement"), entered into as of the 1st day of April, 2019, by and between:

BOROUGH OF ALPHA, in Warren County, a Municipal Corporation of the State of New Jersey, with offices located at 1001 East Boulevard, Alpha, New Jersey 08865 (the "Borough")

and

SOLARTRICITY II, LLC, having an address of PO Box 672, Oldwick, New Jersey 08858 (the "Developer"), its successors and assigns.

RECITALS

WHEREAS, SOLARTRICITY II, LLC is the purchaser under contract for property known and designated as Lot 4, Block 100, commonly known as 55 Industrial Road in the Borough of Alpha, Warren County, New Jersey (the "Property"), consisting of approximately 7.37 acres, which is located within the I-Industrial Zone; and

WHEREAS, the Developer has received Preliminary and Final Site Plan approvals, minor subdivision, conditional use and bulk variance approvals from the Borough Land Use Board pursuant to a Resolution duly adopted by that Board on December 12, 2018, on Application 2018-4, which involved approval to construct a solar production facility consisting of a solar array ground mounted system to provide electrical service to Hunterdon Transformer Company Buildings and other users as not yet identified which project will be constructed in three Phases; and

WHEREAS, a copy of the Resolution is attached hereto as Exhibit "A"; and

WHEREAS, a condition of the Resolution requires the Developer to enter into this Agreement regarding development issues.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the approvals granted, and other good and

valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borough and Developer intending to be legally bound hereby agree as follows:

A. GENERAL

1. Each of the foregoing recitals is incorporated herein at length as if fully set forth herein.

2. Developer agrees to be bound by all the terms and conditions of the Preliminary and Final Site Plan approvals as described in the Resolution, and subject to the vested rights conferred by the foregoing, if any, all applicable Borough ordinances, as the same may be amended from time to time, all such approvals, resolutions and ordinances, (collectively the "Borough Ordinances") and to be bound by the testimony, representation, commitments, matters of fact and matters of law which constitute the written, public file and record of the Board and Borough Council with respect to the Project, including but not limited to the reports and recommendations of the Borough's professionals, consultants and the Alpha Borough Fire Company.

3. This Agreement applies to the entire project and property. Developer's continued compliance with the terms and provisions of this Agreement shall be made a condition of all future approvals, including but not limited to building permits.

B. INFRASTRUCTURE

All utilities shall be provided by the Developer in accordance with the Site Plan approvals and Resolution.

C. CONSTRUCTION SCHEDULE AND PROCEDURES

1. No demolition, site work, deliveries or any construction activity whatsoever (collectively, "Construction Activity") shall begin unless and until all

preconstruction conditions set forth in the Site Plan approvals and Resolution have been satisfied. Developer agrees that all Construction Activity shall be conducted within the Property.

2. Payment of construction inspection fees pursuant to the Borough Ordinances shall be made as and when required. Any time the Inspection Fee Escrow Account falls below the minimum set forth in the Borough Ordinances, Developer shall cease all Construction Activity immediately and no Construction Activity shall be permitted to resume or continue unless and until said minimum escrow balance is restored.

3. A preconstruction meeting shall occur with the Borough Engineer, a representative of the Warren County Soil Conservation District, Developer and its authorized agents and contractors at least seventy-two (72) hours prior to the commencement of any Construction Activity. Developer acknowledges and agrees that the arrangements for this meeting shall be the responsibility of Developer and shall be at the convenience of the Borough Engineer. This meeting shall be arranged at least one week prior to the date fixed for said meeting.

4. Developer shall provide the Borough Engineer with not less than seventy-two (72) hours' prior notice of its intent to commence any Construction Activity. The aforesaid notice may be made by phone, but must be confirmed by written notice at least forty-eight (48) hours prior to any such activity.

5. All traffic control devices shall be designed by a New Jersey licensed professional engineer and comply with the most recent edition of the "Manual on Uniform Traffic Control Devices" and shall be inspected and approved by the Borough Engineer.

6. All soil and sediment control devices shall be installed by Developer as and when required and shall be inspected and approved by the Warren

County Soil Conservation District. A copy of all approved soil erosion and sediment control plans shall be kept on the property at all times.

7. Site Mobilization. The Developer shall provide seventy-two (72) hours' notice to the Borough before Construction Activity begins.

8. All disturbed topsoil shall be stockpiled on the Property and stabilized, and there shall be no removal of topsoil from the Property without prior written consent of the Borough which shall not be unreasonably withheld, conditioned or denied.

9. Storm sewer and the on-site drainage system piping shall be constructed and installed so as to connect the storm water management system for the Project and Property to the detention basins and on-site drainage network as contemplated in the Site Plan approvals and Resolution.

10. Rough site grading may proceed simultaneously with items 8 and 9.

11. The approval granted by the Board does not anticipate additional construction on Borough public roads. If required, however, the Developer shall comply with Borough Ordinances and the requirements from the Borough Engineer in that regard.

12. No permanent signage shall be erected until Developer has complied with all conditions of the Site Plan approvals and Resolution relating to permanent signage.

13. All Construction Activity within or adjacent to the Property shall be restricted to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday, and 8:00 a.m. to 4:00 p.m. on Saturdays and those holidays when Construction Activity is not prohibited. All Construction Activity, including but not limited to deliveries, shall be prohibited on Sundays and the following holidays: New Year's Day, Memorial Day, July Fourth, Labor Day, Thanksgiving Day and Christmas Day.

14. All of the foregoing shall be undertaken and completed in accordance with the foregoing sequence.

D. FIRE PROTECTION

There is no requirement for water service.

E. NOISE

Noise reduction techniques to be employed. The Developer shall provide the results of a noise monitoring report to demonstrate compliance with state noise regulations (65 decibels during the day at the property line, 55 decibels at night) on notice to the Board Engineer.

F. COMPLETION OF IMPROVEMENTS

All site improvements for the Project will be constructed entirely within a period of not more than two years from the date of initial construction activity. The issuance of any Certificate of Occupancy by the Borough shall not be deemed a waiver or release of any defect found in the improvements or acceptance of the site plan improvements during the aforesaid two (2) year period. If the Property or any part thereof is sold, or otherwise transferred by the owner by operation of law, whether voluntarily or not, prior to the completion of all the site improvements, the new owner shall either assume all of the Developer's obligations under all the existing performance guarantees or post replacement construction guarantees in an amount equal to the then-existing performance guarantees and shall either (i) assume all of the Developer's obligations thereunder by a written assignment and assumption agreement, subject to the Borough's reasonable approval, or (ii) enter into a new Agreement before such new owner may commence any Construction Activity on the Property.

G. SITE ACCESS

The Borough, its representatives, consultants, employees and agents, shall be given free access to observe Construction Activity on the Property,

including but not limited to the inspection of all improvements, landscaping and appurtenances as shown on the Site Plan approvals or required by Borough Ordinances. The Borough and its representatives, consultants, employees and agents shall not incur any liability to Developer or any third party as a result of failing to inspect, object, comment upon or take action to stop or alter means, methods, techniques, sequences or procedures of construction selected by Developer, its agents, contractor, subcontractors and employees, for safety precautions and/or other programs incident to the Project or for any failure of Developer, its agent, contractors, subcontractors or employees to comply with applicable laws, rules, regulations, ordinances, codes or orders. Developer hereby expressly agrees to indemnify, defend (with counsel reasonably acceptable to the Borough) and hold the Borough, its representatives, consultants, employees and agents harmless from and against all claims, damages, costs and liabilities of every kind or nature, whether or not foreseeable, for injury or damage received or sustained by any property, person or entity in connection with, or on account of, any Construction Activity and/or construction, installation and/or completion of any site work or improvements, whether or not undertaken based upon the approved plans or Borough Ordinances unless caused by the Borough. Developer is not a representative, consultant, agent or employer of the Borough and vice versa.

H. SOIL EROSION AND SEDIMENT CONTROL

Developer shall comply with all precautions relating to dust control as are identified on the approved soil erosion and sediment control plans and detail sheets and in the latest revision of "Standards for Soil Erosion and Sediment Control in New Jersey". Developer shall also sweep, as frequently as determined by the Borough Engineer, any and all public roadways where tracing of sediment occurs on one or more instances during any given day (and shall take such steps as are

necessary to remove any sediment tracked into public roadways by Developer and/or visitors to the Property). Developer further agrees that it shall be solely responsible for any sediment tracked onto public roadways by any and all visitors to the Property, including but not limited to Developer's agents and subcontractors and any damage caused by the same until issuance of an unconditional Final Certificate of Occupancy for the entire Project.

Developer shall be solely responsible for inspection and maintenance of all soil erosion and sediment control measures ("Measures") shown on the Site Plan approvals or installed to the "standards" as a corrective measure. Upon noticing any deficiencies in either the Maintenance or effectiveness of the approved Measures, or upon receipt of notice of same from the Warren County Soil Conservation District or other governmental authority, Developer shall take immediate action to correct said deficiency. Such action may include but shall not be limited to restoration of the approved Measures or providing a design for new Measures prepared by a New Jersey licensed professional engineer according to the latest revision of Standards for Soil Erosion and Sediment Control in New Jersey to correct said deficiency, provided that no new designs shall be implemented or used without prior approval by the Warren County Soil Conservation District and the Borough Engineer.

Developer shall prevent sediment from leaving the Property in accordance with the Soil Erosion Act of New Jersey. Developer further agrees to be solely responsible for any and all damages resulting from sediment leaving the Property. Developer also agrees to provide dust control as required, according to prevailing standards in order to prevent nuisances to adjacent residential areas.

Developer agrees to notify all contract purchasers of the Property, in writing, that upon purchasing the Property, they shall become solely responsible

for proper maintenance and installation of all Measures, devices, appurtenances, etc.

I. TRAFFIC CONTROL, ROADWAY CLOSING

Developer shall adhere to the Manual on Traffic Control Devices in all respects. The existing structural condition of the roadway along the proposed construction route shall be documented and Developer shall be responsible for all repairs to the roadway resulting from damage caused by construction traffic. Repairs of all distressed pavement found to be Developer's responsibility shall be made prior to issuance of any final Certificate of Occupancy.

Developer agrees there shall be no parking of construction related vehicles on or within any existing public right-of-way. Developer and its subcontractors shall become familiar with and utilize all approved truck routes and follow weight limit restrictions as may be required in the delivering of materials and equipment to the Property and gaining access to the Property using construction vehicles.

In the event of any necessary road closures, Developer further agrees to first seek the approval of the Borough Council and local police department. Developer shall install and maintain appropriate detour traffic signs as and when necessary and shall provide appropriate proper notice to the public as may be required by law.

Developer shall be responsible for the installation, maintenance and removal of all traffic control signs and traffic safety devices until such time as construction at the Property is completed and all site improvements to the extent being dedicated, have been accepted by the Borough.

Developer agrees to provide and maintain a construction road acceptable to the Borough Engineer for emergency access to the Property for the Borough emergency vehicles. The construction vehicle access road laid out

by the Developer for the Project may be used by the Developer to satisfy this emergency access requirement. Borough emergency vehicles shall have access to such construction road throughout construction of the Project.

J. DECOMMISSIONING PLAN

The Developer shall submit a deed restriction for the review and approval of the Board Attorney that will address removal of the solar panel array following the cessation of its usefulness. Upon approval of the deed restriction, the Developer shall post a \$10,000.00 escrow with the Borough of Alpha to address any services required of the Borough's professionals to enforce any of the terms of this Agreement.

K. DAMAGE TO PUBLIC AND PRIVATE PROPERTY

Developer shall be responsible for the preservation of all public and private property, trees and structures along and adjacent to the Property and shall use every reasonable precaution necessary to prevent damage to or injury thereto. Developer shall make all necessary arrangements with the respective utilities prior to relocation or interruption of service.

Developer shall not enter upon or make use of any private property along the boundary of the Property, except where express permission is secured in writing therefor from the owner thereof. Developer shall promptly restore and/or repair, in a reasonable manner satisfactory to the owner thereof, any off-site property as is damaged by Developer and/or Developer's agents, employees and contractors during the development of the Project.

Developer agrees to move heavy equipment over existing pavement as little as possible. Where, in the reasonable opinion of the Borough Engineer, Developer has damaged existing pavement, Developer shall promptly restore same to its pre-damaged condition, or at the election of the Borough, to

reimburse the Borough for the cost of restoration reasonably estimated by the Borough Engineer.

Developer covenants and agrees to promptly repair, reconstruct or restore as the case may be any on-site well that serves any neighboring property that is materially negatively impacted by any activity of the Developer.

L. CONSTRUCTION INSPECTIONS AND SPECIFICATIONS

Construction inspection shall be performed under the supervision of the Borough Engineer.

Developer acknowledges and agrees that random and periodic inspection of the Project are required to insure compliance with Borough Ordinances including but not limited to the Borough's Soil Erosion and Sediment Control specifications. The Borough agrees to use reasonable efforts, except in the case of an emergency, to provide oral and written notice to Developer or its on-site representative prior to making such random inspections.

Developer acknowledges and agrees that inspections by the Borough of the installation of improvements and utilities shall not operate to subject the Borough or its agents, employees or consultants to claims, suits or liability of any kind which may at any time arise whether due to defects, negligence, the construction itself or any other cause whatsoever. Developer recognizes its responsibility to maintain safe conditions at all times during construction. Developer agrees to provide proper utilities, improvements and site accessibility at all times during construction.

Developer agrees that the Borough and its agent, employees or consultants shall not have control or charge of construction means, methods, techniques, sequences, procedures or safety precautions and programs in connection with the Project and therefore shall not be held responsible for or have control or charge over any acts or omissions of Developer, its contractors

and/or subcontractors or any of Developer's, contractor's or subcontractor's agents or employees or any other persons performing any work related to the Project. Developer agrees, however, that nothing herein shall preclude the Borough Engineer from exercising all available remedies, including injunctive relief to insure compliance with the terms and conditions of this Agreement.

M. ENGINEERING DETAILS

Developer understands that all conditions cannot be anticipated in the approved design drawings and may require changes in the field. Developer agrees that the Borough Engineer reserves the right to require changes which, in his reasonable opinion, are necessary to implement the intent of the Borough Ordinances. Developer further agrees that any deviation from the signed plans must be approved by the office of the Borough Engineer prior to said deviation being built or implemented.

N. DEVELOPER REPRESENTATION ON SITE

Developer agrees to maintain an authorized representative on site at all times during construction. This representative shall have authority to correct any deficiency or condition as noted by the Borough Engineer, Health Officer, Public Works Superintendent, Municipal Construction Official, or Zoning Officer or their authorized representatives.

O. PERMITS

Developer shall obtain and keep in its possession all local, state and federal permits and approvals required or necessary to construct the Project or to perform any Construction Activity. Developer's authorized representative shall at all times possess on-site copies of all permits, approvals and/or approved plans and specifications issued for inspection purposes.

P. DEVELOPMENT MAINTENANCE

Developer shall be solely responsible for general, overall, routine and periodic maintenance of the Project and all roadways therein until such time as all performance guarantees are released and maintenance guarantees are posted. General maintenance shall include but shall not be limited to pavement repairs as directed by the Borough Engineer, snow removal, deicing of all Project roadways, maintaining Project-related traffic safety signs, maintaining the Measures and keeping construction areas safe and free of all hazards and properly noticed and barricaded.

Developer shall maintain all detention basins during construction to insure that they function for the purpose for which they were designed. Maintenance shall include but shall not be limited to sediment removal, low flow channel repairs, re-establishment of vegetation, rip-rap repairs and erosion area restoration.

Developer shall be responsible for detention basin maintenance. Should any prospective purchaser utilizing the detention basin facility shall be made fully aware by Developer of its detention basin maintenance responsibility.

Q. NOTICE OF NON-COMPLIANCE

The Borough shall have the right to issue a Notice of Non-Compliance upon any violation of this Agreement. Developer shall use commercially reasonable efforts to eliminate any violation within seventy-two (72) hours of receipt of such Notice of Non-Compliance.

R. REMEDIES

In addition to, and not in lieu of, any fines permitted by law, the Borough may issue a Stop Work Order for all construction activities if (i) there is a material violation of this Agreement by Developer (whether or not a Notice of Non-Compliance was previously issued), or (ii) Developer fails to promptly (but in all

events within seven (7) days of issuance of a Notice of Non-Compliance) cure the violation(s) set forth in a Notice of Non-Compliance. Developer shall not resume any Construction Activity until written notice to proceed is issued by the Borough, provided, however, that Developer shall be permitted to perform Construction Activity to the extent such activity is required in order to cure the violation(s) set forth in the Notice of Non-Compliance as first approved in writing by the Borough Engineer.

The parties acknowledge that any dispute or breach of the terms of this Agreement may be resolved in the Superior Court of New Jersey, Chancery Division, Warren County. The parties hereby submit to the jurisdiction of said Court and agree that any aggrieved party shall, in addition to all other available remedies, be entitled to injunctive relief on short notice. The parties also waive any right for a jury trial. In addition, the parties specifically agree that the Borough does not waive and specifically reserves its right to file any appropriate complaint(s) in any court of competent jurisdiction including but not limited to the Municipal Court of the Borough in order to enforce Borough Ordinances and the compliance therewith by Developer, its agents, contractors, subcontractors or employees.

Developer acknowledges and agrees that any failure to timely correct any deficiency determined by the Borough to be a hazard or threat to public health and/or safety after notice is given orally or by fax/email to Developer's on-site representative will be considered automatic authorization for the Borough to have said deficiency corrected. In furtherance thereof, Developer covenants and agrees to reimburse the Borough for all reasonable costs and expenses incurred by the Borough as a result of or in connection with said deficiency and/or the repair or attempted repair thereof. The remedies set forth in this Agreement

shall be in addition to, and not in lieu of, such other remedies as are available to the Borough at law or in equity.

S. ENTIRE AGREEMENT

This Agreement and the exhibit hereto, constitute the entire agreement of the parties with respect to the subject matter hereof and thereof. Except as otherwise specifically provided herein, no subsequent alterations, amendments, changes or additions to this Agreement or the exhibit shall be binding upon either party unless reduced to writing and signed by the party to be bound.

T. NO WAIVER

Nothing herein shall be construed as a waiver by the Borough of the requirements of Borough Ordinances or any requirement or condition of any memorializing or other resolutions of the Board relative to the Project, unless such waiver is specifically stated.

U. REIMBURSEMENT TO BOROUGH FOR ALL PROFESSIONAL FEES INCURRED

The parties acknowledge and agree that a condition of the implementation of this Agreement and the Resolution of the Board is that the Developer shall reimburse the Borough for all reasonable professional fees incurred with regard to the approval and preparation of this Agreement, within sixty (60) days of the execution of this Agreement. A failure by the Developer to reimburse the Borough for all fees incurred within that time period will be deemed a breach of this Agreement, thereby rendering it null and void and of no further force and effect.

V. SUCCESSORS AND ASSIGNS BOUND

All the terms, covenants and conditions herein contained shall be for and shall inure to the benefit of, and shall be binding upon, the respective parties hereto and their successors and assigns. The terms, covenants and conditions

herein contained shall run with the Property. The Borough and Developer shall each have the right to record this Agreement in the Warren County Clerk's Office.

W. ADDITIONAL OBLIGATIONS OF DEVELOPER

The Developer shall perfect the minor subdivision by the filing of deeds reflecting same within one hundred ninety (190) days of the execution of this Agreement by both parties, the form and content of which shall be submitted to the Board Attorney and Board Engineer for their review and approval. The Developer shall also submit a form acceptable to the Board Attorney an easement for utility service for the proposed Lot 4.01 through Lot 4.

X. NOTICES

All notices permitted or required hereunder (each a "notice") shall be in writing and given by personal delivery, by nationally recognized overnight courier, or by certified mail, return receipt requested postage prepaid addressed as follows:

1. George Wetteland (Developer)
PO Box 672
Oldwick, NJ 08858

With a copy to:

William R. Edleston, Esq.
461 Corliss Avenue
Phillipsburg, NJ 08865

2. As to Borough – addressed to:
Alpha Borough Clerk
1001 East Boulevard
Alpha, NJ 08865

Alpha Borough Utilities Department
1001 East Boulevard
Alpha, NJ 08865

Borough Attorney:
Christopher Troxell, Esq.
370 Pursel Street
Phillipsburg, NJ 08865

Borough Land Use Board Attorney:
Alan Y. Lowcher, Esq.
37 Belvidere Avenue
Washington, NJ 07882

With copies to:

Land Use Board Engineer:
Stanley Schrek, P.E.
Van Cleef Engineering Associates, LLC
755 Memorial Parkway
Phillipsburg, NJ 08865.

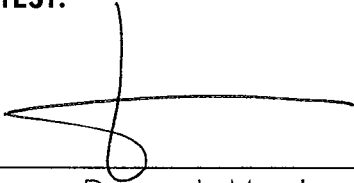
Or such other address and to the attention of such persons as may be designated from time to time by a notice comporting herewith. Notices shall be effective upon receipt (or refusal of delivery) in case of personal delivery or overnight courier, and two (2) business days after deposit in the U.S. Mail in the case of certified mail.

1. AUTHORIZED ACT

Each Party hereby represents and warrants to the other that the execution of this Agreement is the authorized act of such party.

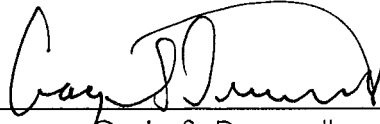
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

ATTEST:



Name: Donna L. Messina
Title: Acting Borough Clerk

BOROUGH OF ALPHA



Name: Craig S. Dunwell
Title: Mayor

ATTEST:

SOLARTRICITY II, LLC

Name:
Title:

Name: George Wetteland
Title: Managing Member

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered as of the day and year first above written.

ATTEST:

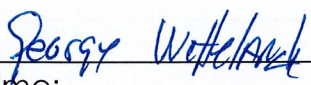
BOROUGH OF ALPHA

Name: Donna L. Messina, RMC
Title: Borough Clerk

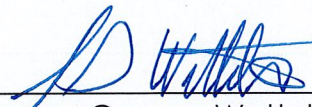
Name: Craig S. Dunwell
Title: Mayor

ATTEST:

SOLARTRICITY II, LLC



Name:
Title: *managing member*



Name: George Wetteland
Title: Managing Member

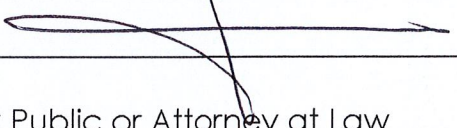
STATE OF NEW JERSEY

SS:

COUNTY OF WARREN

On this 1ST day of APRIL, 2019, before me personally came Craig S. Dunwell, known by me or provided to me satisfactory evidence, to be the Mayor of the BOROUGH OF ALPHA, and who, being duly sworn by me, did depose and say that he executed the foregoing instrument in his capacity as Mayor of the BOROUGH OF ALPHA and that he was authorized to execute the foregoing instrument on behalf of the BOROUGH OF ALPHA and executed the instrument as the act and deed of said entity for the uses and purposes herein mentioned.

DONNA L. MESSINA
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50062233
My Commission Expires 6/12/2022



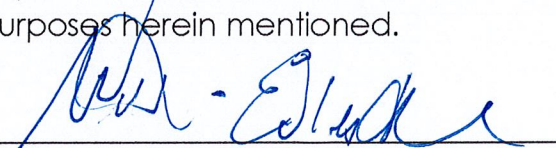
Notary Public or Attorney at Law
State of New Jersey

STATE OF NEW JERSEY

SS:

COUNTY OF WARREN

On this 1ST day of April, 2019, before me personally came George Wetteland, known by me or provided to me satisfactory evidence, to be the person who executed the foregoing instrument and who, being duly sworn by me, did depose and say that he executed the foregoing instrument in his capacity as President of Solartricity II, LLC and that he was authorized to execute the foregoing instrument on behalf of said company and executed the instrument as the act and deed of said entity for the uses and purposes herein mentioned.



William R. Edleston
Notary Public or Attorney at Law
State of New Jersey