



# GENESEE COUNTY PLANNING BOARD REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID **T-07-LEROY-11-22**  
Review Date **11/10/2022**

Municipality  
Board Name  
Applicant's Name  
Referral Type  
Variance(s)  
Description:

**LEROY, T.**  
**PLANNING BOARD**  
**Andrei Romei**  
**Site Plan Review**  
**Site Plan Review for a 52.4 acre, 5 MW ground mounted commercial solar energy system.**

Location  
Zoning District

**Lake Street Rd. (NYS Rt. 19), LeRoy**  
**Light Industrial (I-2) District**

### PLANNING BOARD RECOMMENDS:

**APPROVAL WITH MODIFICATION(S)**

### EXPLANATION:

Given that the project parcels are enrolled in Agricultural District No. 3 and that the project will receive public funding, the required modification is that the applicant comply with NYS Agriculture and Markets Law Section 305 (Notice of Intent provision). With this required modification, the proposed solar energy system should pose no significant county-wide or intercommunity impact. It is recommended that the applicant submits the enclosed application for 9-1-1 Address Verification to the Genesee County Sheriff's Office to ensure that the address of the proposed solar system meets Enhanced 9-1-1 standards.

Director

November 10, 2022

Date

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department.

**SEND OR DELIVER TO:**

GENESEE COUNTY DEPARTMENT OF PLANNING  
3837 West Main Street Road  
Batavia, NY 14020-9404  
Phone: (585) 768-6910

**Clear Form**

**DEPARTMENT USE ONLY:**

GCDP Referral # T-07-LEROY-11-22



**\* GENESEE COUNTY \*  
PLANNING BOARD REFERRAL**

RECEIVED  
Genesee County  
Dept of Planning  
10/25/2022

Required According to:  
**GENERAL MUNICIPAL LAW ARTICLE 12B, SECTION 239 L, M, N**  
(Please answer ALL questions as fully as possible)

**1. REFERRING BOARD(S) INFORMATION**

Board(s) LeRoy Town Board  
Address 48 Main Street  
City, State, Zip LeRoy NY 14482  
Phone (585) 768-6910 Ext. 223

**2. APPLICANT INFORMATION**

Name Andrei Romei  
Address 8 Stream View Cir  
City, State, Zip Fairport, New York 14450  
Phone (585) 749-0778 Ext. \_\_\_\_\_ Email andrei.romei@arcadis.com

MUNICIPALITY:  City  Town  Village of LeRoy, New York, 14482

**3. TYPE OF REFERRAL:** (Check all applicable items)

- |  |  |                                      |
|--|--|--------------------------------------|
| <input type="checkbox"/> Area Variance               | <input type="checkbox"/> Zoning Map Change                 | Subdivision Proposal                 |
| <input type="checkbox"/> Use Variance                | <input type="checkbox"/> Zoning Text Amendments            | <input type="checkbox"/> Preliminary |
| <input type="checkbox"/> Special Use Permit          | <input type="checkbox"/> Comprehensive Plan/Update         | <input type="checkbox"/> Final       |
| <input checked="" type="checkbox"/> Site Plan Review | <input checked="" type="checkbox"/> Other: <u>Full EAF</u> |                                      |

**4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:**

A. Full Address Lake Street Rd. (NYS Rt. 19), LeRoy  
B. Nearest intersecting road Red Mill Rd  
C. Tax Map Parcel Number 25.-1-1.1 and 22.-1-37.1  
D. Total area of the property 55.89 Acres Area of property to be disturbed 52.37  
E. Present zoning district(s) I-2

**5. REFERRAL CASE INFORMATION:**

A. Has this referral been previously reviewed by the Genesee County Planning Board?  
 NO  YES If yes, give date and action taken \_\_\_\_\_  
B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law  
\_\_\_\_\_  
C. Please describe the nature of this request looking to develop a 5MW solar photovoltaic array system on industrial zoned vacant farmland.

**6. ENCLOSURES** – Please enclose copy(s) of all appropriate items in regard to this referral

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> Local application | <input checked="" type="checkbox"/> Zoning text/map amendments | <input type="checkbox"/> New or updated comprehensive plan |
| <input checked="" type="checkbox"/> Site plan         | <input type="checkbox"/> Location map or tax maps              | <input checked="" type="checkbox"/> Photos                 |
| <input type="checkbox"/> Subdivision plot plans       | <input type="checkbox"/> Elevation drawings                    | <input type="checkbox"/> Other: _____                      |
| <input checked="" type="checkbox"/> SEQR forms        | <input type="checkbox"/> Agricultural data statement           |  |

**7. CONTACT INFORMATION** of the person representing the community in filling out this form (required information)

Name Michael Risewick Title CEO Phone (585) 768-6910 Ext. 223  
Address, City, State, Zip 48 Main St LeRoy, New York 14482 Email mrisewick.code@leroyny.org

63-2022 A

### Town of LeRoy

James R. Farnholz  
*Supervisor*

Patricia A. Canfield  
*Town Clerk/Tax Collector*

Darryl Sehm  
John Duyssen  
*Town Justices*



Dave Paddock  
*Deputy Supervisor*

John Armitage  
John Johnson  
Ron Pangrazio  
*Town Council*

Eric Stauffer  
*Supt. of Highways*

### APPLICATION FOR SITE PLAN REVIEW

#### PROPERTY INFORMATION

ADDRESS: Lake Street Road

ZONING CLASSIFICATION: I-2 Light Industrial Tax Map ID # 22.-1-37.1 and 25.-1-1.1

PRESENT USE OF PROPERTY: Vacant farmland

PROPOSED USE OF PROPERTY: Major solar collection system (5 MW solar array)

**PROPOSAL DESCRIPTION** (Include # of employees, hours of operation, and description of business. If there is new construction, please provide a detailed description):

Ground-mounted solar tracking with gravel access road.  
Regular maintenance vehicles following construction.

#### APPLICANT CONTACT INFORMATION NAME:

NAME: FFP NY LeRoy Project 1, LLC PHONE: 855-204-5083

ADDRESS: 100 Montgomery St., #725, San Francisco, CA ZIP: 94104

EMAIL: cschlesinger@forefrontpower.com

#### PROPERTY OWNER CONTACT INFORMATION (IF DIFFERENT FROM APPLICANT)

NAME: Thomas S. Englerth, Jr PHONE: 585-748-2525

NAME: Todd M. Englerth PHONE: \_\_\_\_\_

ADDRESS: 8740 Main Road, Stafford, New York ZIP: 14143

SIGNATURE OF THE PROPERTY OWNER IS REQUIRED FOR REVIEW OF YOUR PROPOSAL:

Thomas S. Englerth, Jr  
Code Officer's Signature

Todd M. Englerth  
Todd M. Englerth

Date rec'd. 10/25/22

Clerk's Signature: [Signature]

Ck. No. #162

"This institution is an equal opportunity employer."  
"This institution is an equal opportunity provider and employer. If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at [http://www.ams.usda.gov/complaint\\_filing.asp](http://www.ams.usda.gov/complaint_filing.asp), or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202)696-7442 or email at [programs.mails@aphis.usda.gov](mailto:programs.mails@aphis.usda.gov)."

Attn: Michael Risewick  
Code Enforcement Officer  
Town of LeRoy  
48 Main Street  
LeRoy, NY 14482

Arcadis of New York, Inc.  
50 Fountain Plaza  
Suite 600  
Buffalo  
New York 14202  
Phone: 716 667 0900  
Fax: 716 842 2612  
[www.arcadis.com](http://www.arcadis.com)

Date: October 6, 2022  
Our Ref: 30144039  
Subject: LeRoy 19N Solar Project Submittals

Dear Mr. Risewick,

Per your request, please find attached the Conceptual Site Layout, SEQR Environmental Assessment Form (EAF), and Decommissioning Plan for FFP NY LeRoy Project 1, LLC's LeRoy Solar Project NY-19 North located on State Route 19 N, LeRoy, New York.

If you have any questions or require additional information, please do not hesitate to contact me at [Michael.Higgins@arcadis.com](mailto:Michael.Higgins@arcadis.com) or 315.382.0567 or Christian Schlesinger at [cschlesinger@forefrontpower.com](mailto:cschlesinger@forefrontpower.com) or 631.495.4950.

Sincerely,  
Arcadis of New York, Inc.



Michael Higgins, Jr., P.E., C.P.E.S.C.  
Principal Engineer

Email: [Michael.Higgins@arcadis.com](mailto:Michael.Higgins@arcadis.com)  
Mobile: 315.382.0567

CC. Christian Schlesinger, ForeFront (electronic)

Enclosures:

Conceptual Site Layout  
SEQR EAF  
LeRoy NY-19 North Decommissioning Plan

# ATTACHMENT 1

LeRoy 19N Conceptual Site Layout



A  
B  
C  
D  
E  
F  
G  
H



**FOREFRONT POWER**

2019 FOREFRONT POWER, LLC AND ITS AFFILIATES, ALL RIGHTS RESERVED  
100 MONTGOMERY ST. #725  
SAN FRANCISCO, CA 94104  
(855) 204-5083  
www.ForeFrontPower.com



ARCADIS U.S., INC.  
50 FOUNTAIN PLAZA  
SUITE 600  
BUFFALO, NY 14202  
(315) 671-9545  
www.arcadis.com

STAMP:

STATE ROUTE 19 N  
LEROY, NY 14482

PROJECT NUMBER  
NY-19-0081

SHEET TITLE  
SITE LAYOUT PLAN

SHEET SIZE  
ARCH D  
24" X 36"

THIS DRAWING IS THE PROPERTY OF FOREFRONT POWER, LLC. THIS INFORMATION IS CONFIDENTIAL AND IS TO BE USED ONLY IN CONNECTION WITH WORK DESCRIBED BY FOREFRONT POWER, LLC. NO PART IS TO BE DISCLOSED TO OTHERS WITHOUT WRITTEN PERMISSION FROM FOREFRONT POWER, LLC.

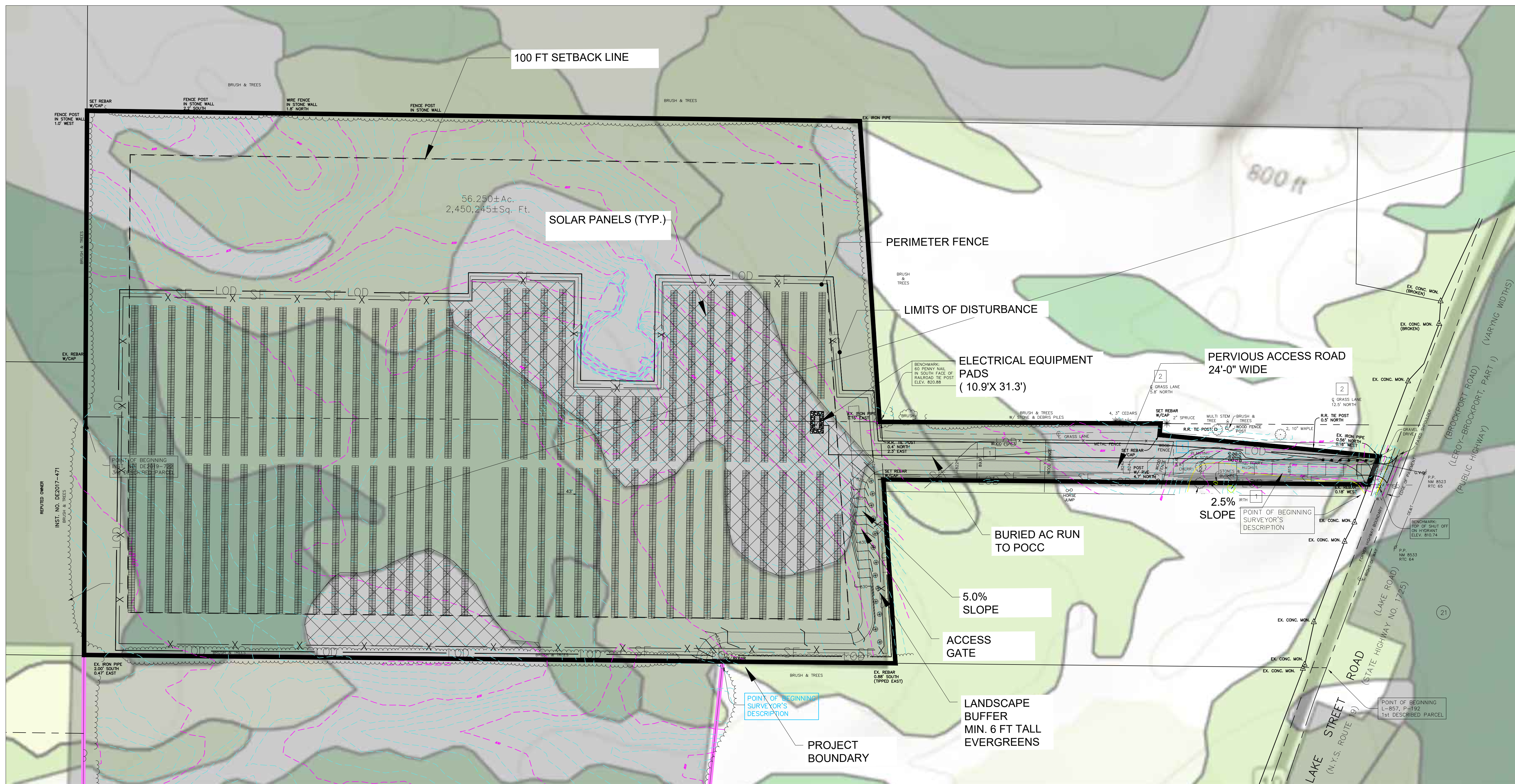
| NO. | REVISION | DATE | INIT. |
|-----|----------|------|-------|
|     |          |      |       |
|     |          |      |       |
|     |          |      |       |
|     |          |      |       |

DATE: 09.10.22  
DRAWN BY: FTR  
ENGINEER: MBH  
APPROVED BY: MBH

PROJECT PHASE:

SCALE: 1"=120'

SHEET NO.:



| PROJECT ZONING          | REQUIRED  | PROPOSED                      |
|-------------------------|---|-------------------------------|
| INST # DE2019-722       |   |                               |
| PROPOSED PROPERTY USE   |   | COMMERCIAL SOLAR ENERGY       |
| SITE ZONING             | <b>165-20.1 I-2 LIGHT INDUSTRIAL</b>                      |                               |
| LANDSCAPING             | FRONT YARDS LANDSCAPED<br>CHAIN LINK FENCE AT RESIDENTIAL | SITE HAS NO FRONT YARD<br>YES |
| YARD REQUIREMENTS       | MAXIMUM LOT COVERAGE: 35%                                 | 15.1%                         |
| STREET ACCESS           | WIDTH: MIN. 24 FT, MAX. 40 FT                             | 24 FT                         |
|                         | <b>165-93 COMMERCIAL SOLAR USE</b>                        |                               |
| ALLOWABLE USE           | ONLY IN I-2 INDUSTRIAL DISTRICT                           | PROPERTY IS I-2               |
| PROPERTY SETBACKS       | 100 FEET FOR FRONT, SIDE, REAR                            | 100 FEET                      |
| MAX. SOLAR PANEL HEIGHT | 12 FEET   | 8 FEET                        |

THE SITE IS LANDLOCKED WITH ONLY A 50 FEET LONG BORDER WITH RT 19 FOR ACCESS. SITE IS LOCATED A MINIMUM DISTANCE OF 970 FEET FROM RT. 19. ALL ADJACENT PROPERTIES ARE ZONED AGRICULTURAL. MOST ADJACENT PARCELS ARE CURRENTLY WOODED, PROVIDING SCREENING FOR SURROUNDING VIEWS. LANDSCAPE SCREENING WILL BE PROVIDED FOR THE ADJACENT FERGUSON PROPERTY ( L-920 ).

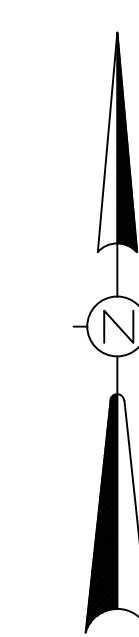
LEGEND:

|           |                                  |
|-----------|----------------------------------|
| ---330--- | EXISTING MAJOR ELEVATION CONTOUR |
| ---330--- | EXISTING MINOR ELEVATION CONTOUR |
| ~ ~ ~     | EXISTING WETLAND                 |
| ---       | PROPERTY BOUNDARY                |
| ---       | EXISTING OVERHEAD ELECTRIC       |
| ---       | EXISTING WATERLINE               |
| ---       | EXISTING WATER VALVE             |
| HY        | EXISTING HYDRANT                 |
| FH        | EXISTING POWER POLE              |
| LOD       | LIMITS OF DISTURBANCE            |
| X         | FENCE                            |
| U         | UTILITY POLE                     |
| OE        | OVERHEAD ELECTRIC                |
| ---       | ELECTRIC CABLE TRENCH            |
| ---       | CONCRETE                         |
| ---       | SOLAR PANELS                     |
| ---       | CULVERT                          |
| ---       | ACCESS ROAD (STONE OR PAVED)     |
| X         | DETAIL REFERENCE NUMBER          |
| X         | DRAWING REFERENCE NUMBER         |

PROJECT SUMMARY

|  |                     |
|--|---------------------|
| PARCEL ACREAGE                               | 56.25 AC            |
| DISTURBANCE AREA                             | 33.84 AC            |
| NON MSG 1/2/3/4 SOILS                        | 8.71 AC             |
| TOTAL MSG 1/2/3 SOILS                        | 25.13 AC            |
| SYSTEM SIZE (DC)                             | 7,202.52KW          |
| SYSTEM SIZE (AC)                             | 5,000KW             |
| MODULES                                      | JA JAM72D30-540/MB  |
| MODULE WATTAGE                               | 540W                |
| MODULE QUANTITY                              | 13,338 units        |
| INVERTERS                                    | SG125HV             |
| INVERTER QUANTITY                            | 40                  |
| PV RACKING TYPE                              | Single Axis Tracker |
| TILT ANGLE                                   | 60°                 |
| AZIMUTH ANGLE                                | 192°                |
| PROPERTY LINE SETBACK TO SOLAR PANELS (MIN.) |                     |
| FRONT SETBACK                                | 100 FT              |
| REAR SETBACK                                 | 100 FT              |
| SIDE SETBACK                                 | 100 FT              |

SCALE: 1"=120'



# ATTACHMENT 2

SEQR EAF



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

**Instructions for Completing Part 1**

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

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

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

**A. Project and Applicant/Sponsor Information.**

|   |                   |   |
|---|-------------------|---|
| Name of Action or Project:<br>LeRoy Solar Project NY-19 North   |                   |   |
| Project Location (describe, and attach a general location map):<br>LeRoy, New York  |                   |   |
| Brief Description of Proposed Action (include purpose or need):<br>The project involves the construction of a solar PV array consisting of fixed racking systems, associated electrical equipment (e.g., XFMR pad, inverters, transformer, switchboard, and utility poles), an access road, and perimeter fencing in LeRoy, New York, as detailed in Attachment 1 (Site Plan).<br>The PV panels are east-west tilting; a power feed wire from the panel rows to the electrical equipment pad locations will be installed below-grade. The underground conduit from these pads will run to utility poles near the site entrance. Aboveground wires will connect these utility poles to the existing electrical utility lines along Lake Street Road (Route 19).<br>The spacing of the array rows is sufficient to allow for routine mowing 3 to 4 times during the growing season. The Site will be restored to a meadow condition, with the exception of the pervious gravel road, paved driveway entrance, and the concrete equipment pad. Existing trees and shrubs on the perimeter of the Site will be maintained to provide a screening barrier.<br>The Site area subject to the installation of the solar PV arrays and related construction activities is estimated to be approximately 34.46 acres. |                   |   |
| Name of Applicant/Sponsor:<br>Christian Schlesinger, Forefront Power  |                   | Telephone: 631.495.4950                 |
|   |                   | E-Mail: cschlesinger@forefrontpower.com |
| Address: 100 Montgomery Street, Suite 725   |                   |   |
| City/PO: San Francisco  | State: California | Zip Code: 94104                         |
| Project Contact (if not same as sponsor; give name and title/role):   |                   | Telephone:                              |
|   |                   | E-Mail:                                 |
| Address:  |                   |   |
| City/PO:  | State:            | Zip Code:                               |
| Property Owner (if not same as sponsor):<br>Thomas Englerth   |                   | Telephone: 585.746.2525                 |
|   |                   | E-Mail: thomas.englerth@yahoo.com       |
| Address:<br>Lake Street Road  |                   |   |
| City/PO: LeRoy  | State: New York   | Zip Code: 14482                         |



**B. Government Approvals**

**B. Government Approvals, Funding, or Sponsorship.** (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

| Government Entity   | If Yes: Identify Agency and Approval(s) Required                             | Application Date (Actual or projected)                              |
|---|--|---|
| a. City Counsel, Town Board, <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No or Village Board of Trustees |  |   |
| b. City, Town or Village Planning Board or Commission <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No     | Town Board of LeRoy - Special Use Permit                                     | 10/6/2022   |
| c. City, Town or Village Zoning Board of Appeals <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No          |  |   |
| d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No                                   |  |   |
| e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  | Genessee County: Planning Dept- Special Use Permit, Highway Dept- ROW Permit | 11/3/2022   |
| 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 - SWPPP approval  | Projected 11/3/2022   |
| 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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| iii. Is the project site within a Coastal Erosion Hazard Area?  |  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

**C. Planning and Zoning**

**C.1. Planning and zoning actions.**

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?  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):

Oatka Creek Watershed Management Plan, Genessee River Basin Nine Key Element Watershed Plan

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):

LeRoy Agriculture and Farmland Protection Plan

**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?  
light industrial \_\_\_\_\_

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

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

**C.4. Existing community services.**

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

b. What police or other public protection forces serve the project site?  
Village of LeRoy Police Department, Genesee County Sheriffs Department, New York State Police

c. Which fire protection and emergency medical services serve the project site?  
LeRoy Fire Department, LeRoy Ambulance Service Inc.

d. What parks serve the project site?  
Mill Street Park, Bunnel 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)? Construction of a solar photovoltaic (PV) array system

b. a. Total acreage of the site of the proposed action? \_\_\_\_\_ 56.25 acres  
b. Total acreage to be physically disturbed? \_\_\_\_\_ 34.46 acres  
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? \_\_\_\_\_ 86.51 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 \_\_\_\_\_  
• Anticipated commencement date of phase 1 (including demolition) \_\_\_\_\_ month \_\_\_\_\_ year  
• Anticipated completion date of final phase \_\_\_\_\_ month \_\_\_\_\_ year  
• Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

f. Does the project include new residential uses?  Yes  No

If Yes, show numbers of units proposed.

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

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

If Yes,

i. Total number of structures \_\_\_\_\_

ii. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; and \_\_\_\_\_ length

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

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

If Yes,

i. Purpose of the impoundment: \_\_\_\_\_

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

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

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

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

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

## D.2. Project Operations

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

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: \_\_\_\_\_ gallons/day

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

If Yes:

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

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

If Yes:

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

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

If Yes:

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

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

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

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

If Yes:

i. Total anticipated liquid waste generation per day: \_\_\_\_\_ see below \_\_\_\_\_ 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): \_\_\_\_\_

No industrial waste generated will be during construction, however sanitary waste will be generated by use of porta-pottys. This waste will be transported off-Site for disposal by the contracted porta-potty company.

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

If Yes:

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

• Do existing sewer lines serve the project site?  Yes  No  
 • Will a line extension within an existing district be necessary to serve the project?  Yes  No  
 If Yes:
 

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_

---

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site?  Yes  No  
 If Yes:
 

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- What is the receiving water for the wastewater discharge? \_\_\_\_\_

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

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

---

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

- i. How much impervious surface will the project create in relation to total size of project parcel?  
 \_\_\_\_\_ Square feet or 0.03 acres (impervious surface)  
 \_\_\_\_\_ Square feet or 56.25 acres (parcel size)
- ii. Describe types of new point sources. Excavation of site during construction will result in stormwater runoff as sheet flow. The project site will be returned to original vegetative cover conditions and drainage post-construction, with a negligible amount of increased impervious surface in the form of an equipment pad and a small stretch of paved entrance road.  
 \_\_\_\_\_
- 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)?  
 Erosion and sediment control measures will be utilized to control sediment transport in stormwater. Stormwater is expected to infiltrate soil on-site.  
 \_\_\_\_\_
- If to surface waters, identify receiving water bodies or wetlands: \_\_\_\_\_
- 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)  
 \_\_\_\_\_
- ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)  
 \_\_\_\_\_
- iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)  
 \_\_\_\_\_

---

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 (CO<sub>2</sub>)
  - \_\_\_\_\_ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)
  - \_\_\_\_\_ Tons/year (short tons) of Perfluorocarbons (PFCs)
  - \_\_\_\_\_ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)
  - \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflouorocarbons (HFCs)
  - \_\_\_\_\_ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

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

If Yes:

i. Estimate methane generation in tons/year (metric): \_\_\_\_\_

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

---

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

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

---

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

If Yes:

i. When is the peak traffic expected (Check all that apply):  Morning  Evening  Weekend  
 Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_.

ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): \_\_\_\_\_

iii. Parking spaces: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ Net increase/decrease \_\_\_\_\_

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

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

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

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

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

---

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

If Yes:

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

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

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

---

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

|   |  |
|---|--|
| <p>i. During Construction:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____ 7am-6pm</li> <li>• Saturday: _____ Occasional access only</li> <li>• Sunday: _____ Occasional access only</li> <li>• Holidays: _____ Occasional access only</li> </ul> | <p>ii. During Operations:</p> <ul style="list-style-type: none"> <li>• Monday - Friday: _____ 7am-6pm</li> <li>• Saturday: _____ Occasional access only</li> <li>• Sunday: _____ Occasional access only</li> <li>• Holidays: _____ Occasional access only</li> </ul> |
|---|--|

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:  
 Use of heavy equipment may exceed existing ambient noise levels during construction and within normal weekday construction times above.  
 \_\_\_\_\_  
 \_\_\_\_\_

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

---

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

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

---

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

---

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

---

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

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

---

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?  Yes  No  
 If Yes:  
 i. Describe any solid waste(s) to be generated during construction or operation of the facility:  
 • Construction: \_\_\_\_\_ 1 tons per \_\_\_\_\_ Week (unit of time)  
 • Operation : \_\_\_\_\_ 1 tons per \_\_\_\_\_ Year (unit of time)  
 ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:  
 • Construction: Recycling will be used as practicable.  
 \_\_\_\_\_  
 • Operation: Recycling will be used as practicable.  
 \_\_\_\_\_  
 \_\_\_\_\_

iii. Proposed disposal methods/facilities for solid waste generated on-site:  
 • Construction: Roll-off disposal for off-site hauling to landfill.  
 \_\_\_\_\_  
 • Operation: Municipal trash pickup.  
 \_\_\_\_\_  
 \_\_\_\_\_

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): \_\_\_\_\_  
 ii. If mix of uses, generally describe:  
 \_\_\_\_\_  
 \_\_\_\_\_

b. Land uses and covertypes on the project site.

| Land use or Coverture  | Current Acreage | Acreage After Project Completion | Change (Acres +/-) |
|--|-----------------|----------------------------------|--------------------|
| • Roads, buildings, and other paved or impervious surfaces                               | 0.00            | 0.03                             | +0.03              |
| • Forested   | 0.00            | 0.00                             | 0.00               |
| • Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural) | 55.50           | 55.50                            | 0.00               |
| • Agricultural (includes active orchards, field, greenhouse etc.)                        | 0.00            | 0.00                             | 0.00               |
| • Surface water features (lakes, ponds, streams, rivers, etc.)                           | 0.00            | 0.00                             | 0.00               |
| • Wetlands (freshwater or tidal)   | 0.00            | 0.00                             | 0.00               |
| • Non-vegetated (bare rock, earth or fill)   | 0.75            | 0.75                             | 0.00               |
| • Other Describe: _____<br>_____   | -               | -                                | -                  |



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): 819009  
iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):  
NYSDEC Remediation Site ID 819009 refers to a site located approximately 1,700 feet north and downgradient from the project where drums containing waste machine oil and possible solvents were reported in poor condition in 1976. After the owner removed the drums, sampling showed that no contamination remained in the soil or groundwater in the area. As a result, remediation site 819009 has a status of "N" indicating no further action is needed.

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? \_\_\_\_\_ >6.56 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:

|                                    |       |        |
|------------------------------------|-------|--------|
| Palmyra gravelly loam, 8-15% slope | _____ | 10.5 % |
| Palmyra gravelly loam, 0-3% slope  | _____ | 10.0 % |
| Palmyra gravelly loam, 3-8% slope  | _____ | 9.3 %  |

d. What is the average depth to the water table on the project site? Average: \_\_\_\_\_ >6.56 feet

e. Drainage status of project site soils:  Well Drained: \_\_\_\_\_ 96.6 % of site  
 Moderately Well Drained: \_\_\_\_\_ 1.1 % of site  
 Poorly Drained \_\_\_\_\_ 2.3 % of site

f. Approximate proportion of proposed action site with slopes:  0-10%: \_\_\_\_\_ 75.2 % of site  
 10-15%: \_\_\_\_\_ 24.8 % of site  
 15% or greater: \_\_\_\_\_ 0.0 % 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 821-86 (southeast adjacent to project area) Classification C
- Lakes or Ponds: Name \_\_\_\_\_ Classification \_\_\_\_\_
- Wetlands: Name \_\_\_\_\_ 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: \_\_\_\_\_

|  |                 |                      |                      |         |         |  |       |               |  |  |
|--|-----------------|----------------------|----------------------|---------|---------|--|-------|---------------|--|--|
| <p>m. Identify the predominant wildlife species that occupy or use the project site:</p> <table style="width: 100%; border: none;"> <tr> <td style="border-bottom: 1px solid black; width: 33%;">White-Tail Deer</td> <td style="border-bottom: 1px solid black; width: 33%;">Opossum</td> <td style="border-bottom: 1px solid black; width: 33%;">Various bird species</td> </tr> <tr> <td style="border-bottom: 1px solid black;">Raccoon</td> <td style="border-bottom: 1px solid black;">Red Fox</td> <td style="border-bottom: 1px solid black;"></td> </tr> <tr> <td style="border-bottom: 1px solid black;">Skunk</td> <td style="border-bottom: 1px solid black;">Grey Squirrel</td> <td style="border-bottom: 1px solid black;"></td> </tr> </table>              | White-Tail Deer | Opossum              | Various bird species | Raccoon | Red Fox |  | Skunk | Grey Squirrel |  |  |
| White-Tail Deer  | Opossum         | Various bird species |                      |         |         |  |       |               |  |  |
| Raccoon  | Red Fox         |                      |                      |         |         |  |       |               |  |  |
| Skunk  | Grey Squirrel   |                      |                      |         |         |  |       |               |  |  |
| <p>n. Does the project site contain a designated significant natural community? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Describe the habitat/community (composition, function, and basis for designation): _____</p> <p style="margin-left: 20px;">ii. Source(s) of description or evaluation: _____</p> <p style="margin-left: 20px;">iii. Extent of community/habitat:</p> <ul style="list-style-type: none"> <li>• Currently: _____ acres</li> <li>• Following completion of project as proposed: _____ acres</li> <li>• Gain or loss (indicate + or -): _____ acres</li> </ul>  |                 |                      |                      |         |         |  |       |               |  |  |
| <p>o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing (endangered or threatened): _____</p> <p><u>Bald Eagle</u> - Consultations with USFWS and NYNHP did not identify T&amp;E species or critical habitat within the project area. No tree clearing to be done. Likely triggered by EAF Mapper buffer and a mapped rare plants/animals occurrence on Oatka Creek approx. 5,000 ft. to NE of project.</p> |                 |                      |                      |         |         |  |       |               |  |  |
| <p>p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Species and listing: _____</p>  |                 |                      |                      |         |         |  |       |               |  |  |
| <p>q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If yes, give a brief description of how the proposed action may affect that use: _____</p>   |                 |                      |                      |         |         |  |       |               |  |  |
| <p><b>E.3. Designated Public Resources On or Near Project Site</b></p>   |                 |                      |                      |         |         |  |       |               |  |  |
| <p>a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p>If Yes, provide county plus district name/number: <u>GENE003</u></p>   |                 |                      |                      |         |         |  |       |               |  |  |
| <p>b. Are agricultural lands consisting of highly productive soils present? <span style="float: right;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</span></p> <p style="margin-left: 20px;">i. If Yes: acreage(s) on project site? <u>34.46 acres</u></p> <p style="margin-left: 20px;">ii. Source(s) of soil rating(s): <u>Web Soil Survey</u></p>   |                 |                      |                      |         |         |  |       |               |  |  |
| <p>c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. Nature of the natural landmark: <input type="checkbox"/> Biological Community <input type="checkbox"/> Geological Feature</p> <p style="margin-left: 20px;">ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____</p>   |                 |                      |                      |         |         |  |       |               |  |  |
| <p>d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? <span style="float: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</span></p> <p>If Yes:</p> <p style="margin-left: 20px;">i. CEA name: _____</p> <p style="margin-left: 20px;">ii. Basis for designation: _____</p> <p style="margin-left: 20px;">iii. Designating agency and date: _____</p>   |                 |                      |                      |         |         |  |       |               |  |  |

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

**F. Additional Information**

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

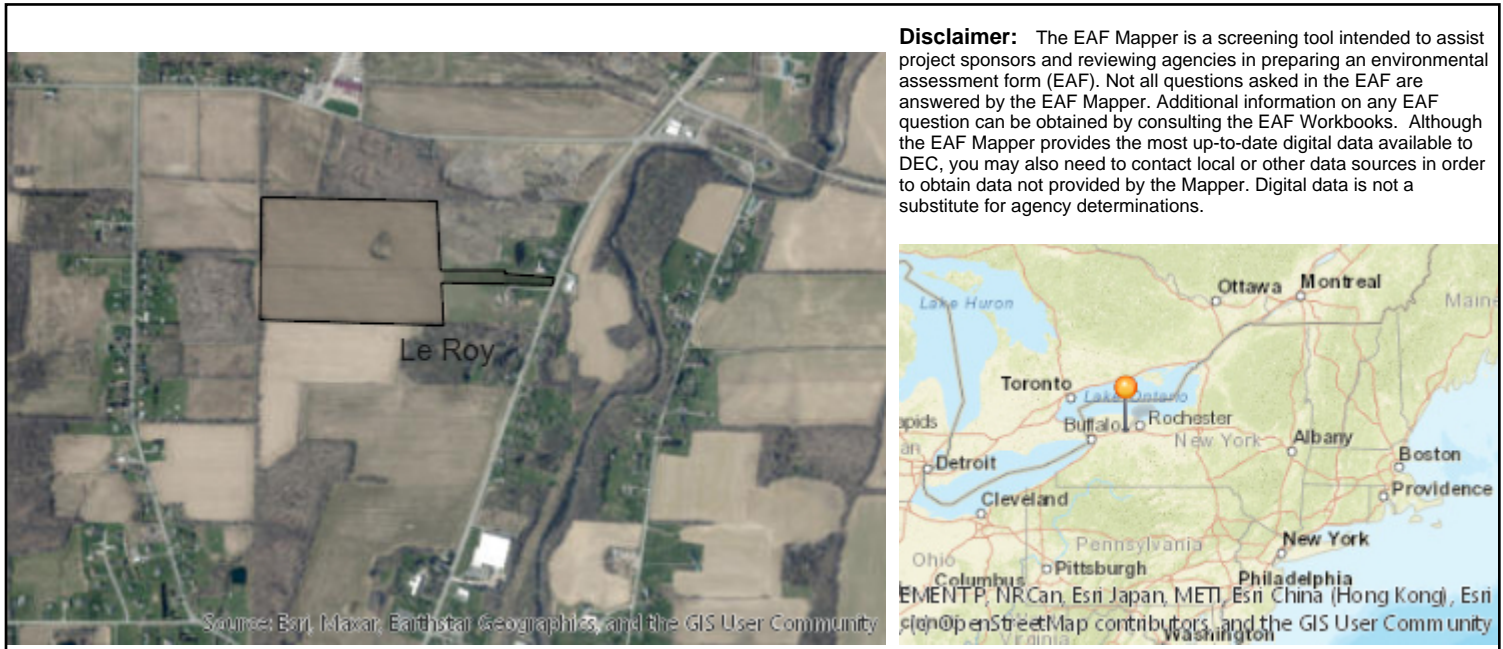
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

**G. Verification**

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

Applicant/Sponsor Name Christian Schlesinger/ForeFront Power      Date 10/06/2022

Signature \_\_\_\_\_      Title Development Project Manager



**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.

|  |   |
|--|---|
| B.i.i [Coastal or Waterfront Area]   | No  |
| B.i.ii [Local Waterfront Revitalization Area]                                      | No  |
| 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]                                  | Yes   |
| E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]                         | 819009  |
| E.2.g [Unique Geologic Features]   | No  |
| E.2.h.i [Surface Water Features]   | No  |
| 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.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. [500 Year Floodplain]   | Digital mapping data are not available or are incomplete. Refer to EAF Workbook.  |
| E.2.l. [Aquifers]  | No  |

|  |  |
|--|--|
| E.2.n. [Natural Communities]   | No   |
| E.2.o. [Endangered or Threatened Species]                                      | Yes  |
| E.2.o. [Endangered or Threatened Species - Name]                               | Bald Eagle   |
| E.2.p. [Rare Plants or Animals]  | No   |
| E.3.a. [Agricultural District]   | Yes  |
| E.3.a. [Agricultural District]   | GENE003  |
| 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   |

# ATTACHMENT 3

LeRoy 19N Decommissioning Plan



FFP NY LeRoy Project 1, LLC

# Decommissioning Plan

**LeRoy Solar Project NY-19 North (NY-19-0119)**

**Lake Street Road**

**LeRoy, New York**

September 2022



# Decommissioning Plan

**LeRoy NY-19 North (NY-19-0119)**

**Lake Street Road**

**LeRoy, NY**

September 23, 2022

**Prepared By:**

Arcadis of New York, Inc.  
50 Fountain Plaza, Suite 600  
Buffalo  
New York 14202  
Phone: 716 667 0900  
Fax: 716 842 2612

**Prepared For:**

FFP NY LeRoy Project 1, LLC  
12 East 4<sup>th</sup> Street  
New York, NY 10017

**Our Ref:**

30144039

*This document is intended only for the use of the individual or entity for which it was prepared and may contain information that is privileged, confidential and exempt from disclosure under applicable law. Any dissemination, distribution or copying of this document is strictly prohibited.*

## Contents

|          |   |          |
|----------|---|----------|
| <b>1</b> | <b>INTRODUCTION .....</b>                         | <b>1</b> |
| 1.1      | Introduction .....                                | 1        |
| 1.2      | Project Description.....                          | 1        |
| <b>2</b> | <b>DECOMMISSIONING AND RECLAMATION PLAN .....</b> | <b>3</b> |
| 2.1      | Anticipated Operational Life of Solar Array.....  | 3        |
| 2.2      | Decommissioning Notification.....                 | 3        |
| 2.3      | Decommissioning Prior to Completion .....         | 3        |
| 2.4      | Implementation Plan.....                          | 3        |
| 2.5      | Potential Environmental Impacts .....             | 4        |
| 2.6      | Site Restoration .....                            | 6        |
| 2.7      | Decommissioning Schedule.....                     | 7        |
| <b>3</b> | <b>ESTIMATED COST OF DECOMMISSIONING.....</b>     | <b>7</b> |
| <b>4</b> | <b>FINANCIAL ASSURANCE.....</b>                   | <b>8</b> |

## Tables

|  |          |
|--|----------|
| <b>Table 1. Proposed Major Equipment .....</b>       | <b>2</b> |
| <b>Table 2. Materials Management Summary .....</b>   | <b>5</b> |
| <b>Table 3. Estimated Decommissioning Costs.....</b> | <b>7</b> |

# 1 INTRODUCTION

## 1.1 Introduction

On behalf of FFP NY LeRoy Project 1, LLC (ForeFront and “Applicant”), Arcadis of New York, Inc. (Arcadis) has prepared this draft Decommissioning Plan for the LeRoy Solar Project (NY-19-0119) in the Town of LeRoy, Genesee County, New York. The Project is located at Lake Street Road and will consist of a 5-megawatt (MW) solar photovoltaic (PV) array system on 52.37 acres of a 56.25-acre agricultural parcel (Tax Map Parcel 22.-1-37.1). Currently, the Project site is agricultural land with meadow and agricultural row crops as shown in the below photographs.



This Decommissioning Plan was prepared to satisfy a condition of the special use permit for the project set forth in the Town of LeRoy’s Zoning Ordinance, Article XII, Section 165-96 Abandonment and Decommissioning for Major Collection Systems. For design and technical specifications, please refer to the Project technical drawings submitted as part of the Site Plan Review.

## 1.2 Project Description

The project involves the construction of a solar PV array consisting of tilting racking systems, associated electrical equipment (e.g., transformer, switchboard, and utility poles), a pervious gravel access road and perimeter fencing.

The PV panels are designed to tilt to track the sun to improve efficiency; power feed wire from the panel rows to the electrical equipment pad locations will be installed below-grade. Conduit from these pads will be installed below grade and run to utility poles near the site entrance. Aboveground wires will connect these utility poles to the existing electrical utility lines along Lake Street Road.

The spacing of the array rows is sufficient to allow for routine maintenance mowing of the surface vegetation. The Site will be restored to a meadow condition, except for a portion of the pervious gravel road. Trees and shrubs will be planted on the outside of the eastern perimeter fencing to provide a screening barrier.

The proposed equipment that the Applicant will utilize associated with the Project are detailed below.

*Table 1. Proposed Major Equipment*

| Item          | Manufacturer/Provider    | Quantity         | Useful Life |
|---------------|--------------------------|------------------|-------------|
| Solar Arrays  | JA SOLAR JAM72D30-540/MB | 13,338           | 30 years    |
| Inverters     | SG125HV                  | 40               | 25 years    |
| Transformer   | TBD                      | TBD              | 30 years    |
| Racking       | Contractor               | See Final Design | 30 years    |
| Wiring        | Contractor               | See Final Design | 30 years    |
| Concrete Pads | Contractor               | 1                | 30 years    |

## **2 DECOMMISSIONING AND RECLAMATION PLAN**

Currently, an “option to lease” agreement is in place between the Applicant and the property owner. Upon Town of LeRoy approval of the Project, the Applicant will enter into a long-term lease agreement with Mr. Thomas S. Englerth and Mr. Todd M. Englerth, the landowners, associated with this project. It is anticipated that a lease agreement with a twenty (20) year term will be executed with two (2) five-year options to extend. At the end of the lease terms, the Applicant will either 1) enter into a mutual agreement to extend the lease, or 2) remove the PV system components and restore the Project site at the Applicant’s expense.

### **2.1 Anticipated Operational Life of Solar Array**

Typically, solar panels have a useful life of approximately 30 years. Based upon the terms of the anticipated long-term lease with the property owner, it is anticipated that the solar farm will be operational for 30 years.

### **2.2 Decommissioning Notification**

Project stakeholders will be notified a minimum of six months prior to initiating decommissioning activities. Local, county and state authorities will be notified, as needed, to discuss potential approvals required to complete decommissioning activities. Current stakeholders include:

- The property owner
- The Town of LeRoy
- Genesee County
- National Grid
- New York State Department of Environmental Conservation
- New York State Department of Agriculture and Markets

### **2.3 Decommissioning Prior to Completion**

In the event that decommissioning of the solar facility is necessary prior to fully commissioning the facility, a prolonged period (e.g., greater than 12 months) of inactivity, or prior to reaching its maturity, the decommissioning and site restoration procedures detailed in this plan will be implemented.

### **2.4 Implementation Plan**

Decommissioning activities will be conducted by trained contractors in accordance with the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands (October 2019). Repurposing (e.g., recycling and reselling) of project materials, such as solar arrays, racking system, wiring, steel piers, and ancillary equipment will be conducted to the

maximum extent practicable. Electrical equipment may be sold back to the manufacturer or another party, recycled or disposed. The utility, National Grid, will be responsible for removing their equipment from utility poles prior to the removal of the utility poles by the Applicant. Decommissioning of the solar farm will include the following:

- De-energizing the system from potential energy.
- Disconnection and removal of wiring from equipment.
- Removal of inverters, transformer, and switchgear from the concrete equipment pads.
- Removal of solar panels from piers and stacking of panels for off-site disposal or recycling.
- Removal of steel piers associated with the solar panels.
- Removal of equipment, concrete, conduits, structures, utility poles, fencing, and foundations located above- and belowground.
- Removal of gravel areas and access roads and associated geogrid.
- Decompaction of the access road footprint to a minimum of 24-inches beneath the bottom of the former stone layer.
- Segregating materials as recyclable, re-saleable or requiring offsite disposal.
- Removal of generated waste in accordance with local, state, and federal regulations.
- Backfilling trenches with native soils.
- Placement of 6-inches of native topsoil over disturbed soils, with the exception of the access road footprint, which will have 12-inches of native topsoil placed to match surrounding grade. Additional topsoil will be added, as necessary, to account for settlement.
- Stabilization of disturbed soil within two weeks with a perennial grass stabilization mix applied per New York State Department of Environmental Conservation (NYSDEC) erosion and sediment control methods and seeding rates applicable for the season, soil type and slope. Revegetation will be conducted in coordination with the property owner.

Decompaction and topsoil placement will be conducted during dry soil conditions to minimize re-compaction by construction vehicles during site restoration activities. Post-decommissioning monitoring is summarized in Section 2.6, Site Restoration.

## 2.5 Potential Environmental Impacts

During decommissioning activities, potential short-term environmental impacts, similar to those observed during typical construction activities, are possible. Soil disturbance activities have the potential for: erosion and conveyance of soil/sediment to downgradient areas via surface runoff; erosion and sediment migration within work areas; and mechanical tracking of soils/sediments onto off-site areas. Therefore, temporary erosion and sediment control measures, similar to those installed during construction activities, will be installed, and maintained during decommissioning activities. Erosion and sediment controls will be installed and maintained in accordance with the latest edition of the NYS Standards and Specifications for Erosion and Sediment Control. These measures will remain in-place until the site is suitably stabilized.

In addition, the following potential environmental impacts may be temporarily observed during decommissioning activities:

- An increase in road traffic associated with the mobilization/demobilization of work crews and equipment and the off-site transportation of generated materials. Work will be limited to typical daylight working hours (e.g., 7 am to 7 pm) to reduce the impact to the community associated with the increase road traffic.
  - Elevated noise levels due to the increase in road traffic, crews and equipment utilized. Work will be limited to typical daylight working hours (e.g., 7 am to 7 pm) to reduce the impact to the community associated with the increase road traffic.
  - An increase in particulate matter (i.e., dust) on and adjacent to the Project area. Efforts will be made to limit the generation of particulate matter by limiting soil disturbances, especially during high wind periods, reducing vehicle speeds on the Project site, and wetting roadways.
- Management of Generated Materials

During decommissioning activities, a variety of materials will be generated. These materials will be segregated into material to be disposed of, recycled, or reused. A significant portion of the materials used for the project are reusable or recyclable. In addition, some manufacturers provide take-back and recycling options. Materials not eligible for any sort of reuse or recyclable option will be transported and disposed of offsite in accordance with local, state, and federal rules and regulations. The solar panels will be collected and recycled to minimize the potential for modules to be discarded in the municipal waste stream. Due to the recent increase in solar facilities, it is anticipated that a large quantity of solar panels will be nearing the end of their useful life in 30 years. As such, it is anticipated that more recycling options will be available at that time. Materials generated during the Project will be handled (e.g., disposed, recycled, reused) using the best management practices at the time of decommissioning.

Table 2. Materials Management Summary

| Material                         | Management Method  |
|----------------------------------|--|
| Solar Panels                     | Solar panels will be: 1) reused to the extent practical; 2) transported to a facility to separate and recycle the glass, metal, and semi-conductor materials; 3) returned to the manufacturer for disposal and/or recycling.   |
| Metal Racking and Support System | Materials will be processed for recycling.   |
| Transformers                     | Transformers will be 1) reused to the extent practical; 2) recycled; 3) transported back to the manufacturer; or 4) disposed off-site in accordance with the rules and regulations in place at the time of decommissioning.  |
| Inverters                        | <p>Metal components of the inverters and associated appurtenances will be recycled to the extent practical or disposed off-site in accordance with the rules and regulations in place at the time of decommissioning.</p> <p>The remaining inverter components will be disposed off-site in accordance with the rules and regulations in place at the time of decommissioning.</p> |

| Material                            | Management Method  |
|-------------------------------------|--|
| Concrete Equipment Pads/Foundations | Concrete pads and foundations will be broken up and transported and disposed off-site in accordance with the rules and regulations in place at the time of decommissioning.  |
| Electrical Wiring/Cables            | Electrical wiring/cables will be: 1) reused to the extent practical; 2) recycled; 3) returned to the manufacturer for disposal and/or recycling; or 4) disposed off-site in accordance with the rules and regulations in place at the time of decommissioning. |
| Gravel                              | Gravel will be transported off-site for processing and reuse.  |
| Geotextile and Geogrid              | During access road removal, the geogrid generated will be transported and disposed off-site in accordance with the rules and regulations in place at the time of decommissioning.  |
| Fencing                             | Materials will be processed for recycling.   |
| Utility Poles                       | If untreated, utility poles will be chipped for reuse. If treated, utility poles will be disposed of in accordance with the rules and regulations in place at the time of decommissioning.   |
| Landscape                           | Landscaping requiring removal will be chipped for reuse.   |
| Debris                              | Project site debris will be segregated into recyclable and residual waste and be transported and disposed off-site in accordance with the rules and regulations in place at the time of decommissioning.   |

## 2.6 Site Restoration

The Project site will be restored to pre-construction conditions and will:

- Follow the New York State Department of Agriculture and Markets Guidelines for Solar Energy Projects-Construction Mitigation for Agricultural Lands (October 18, 2019).
- Restore the project site to pre-construction conditions of meadow and agricultural row crops, in coordination with the property owner, and follow the latest version of the New York State Standards and Specifications for Erosion and Sediment Control for soil restoration, seeding, mulching or other applicable sections, as required.

If the property owner chooses, they may petition the Planning Board to permit the property owner to leave specific underground or aboveground improvements in place, provided that the property owner can show that these improvements are for site redevelopment, are not detrimental to site redevelopment and do not adversely impact the environment.



Following initial restoration after decommissioning, for a minimum of three growing seasons, agricultural production of the access road footprint will be monitored against adjacent crop growth for production/vitality. In addition, the area will be monitored for potential signs that existing tile drainage has been damaged. This monitoring plan be conducted by a NYS Department of Agriculture and Market approved inspector. In addition, the Applicant will be responsible for making restorative efforts in consultation with the NYS Department of Agriculture and Market approved inspector until sign-off by the inspector has been achieved.

## 2.7 Decommissioning Schedule

Decommissioning activities will be implemented in the event that:

- Decommissioning of the solar facility is necessary prior to fully commissioning the facility.
- The facility experiences a prolonged period (e.g., greater than 12 months) of inactivity.
- Decommissioning of the solar facility prior to reaching its maturity.
- The long-term lease for the solar facility has expired; or
- The solar facility has reached maturity.

Once one of the above conditions has been met, decommissioning activities will commence and will be completed within the next 12-month period.

## 3 ESTIMATED COST OF DECOMMISSIONING

The estimated net cost of decommissioning the Project is approximately \$171,200 and assumes repurposing \$188,100 of project materials. The table below summarizes decommissioning costs by major project components and overall project salvage value.

Table 1. Estimated Decommissioning Costs

| Tasks                                   | Estimated Cost |
|---|----------------|
| <b>Decommissioning Costs</b>            |                |
| Utility Disconnection                   | \$5,000        |
| Removal of PV Modules                   | \$133,400      |
| Removal of Racking, Frames and Supports | \$93,400       |
| Removal of Concrete Equipment Pads      | \$5,000        |
| Access Road Removal                     | \$22,000       |
| Final Grading and Seeding               | \$52,500       |
| Transportation and Disposal             | \$48,000       |

| Tasks   | Estimated Cost |
|---|----------------|
| <i>Current Decommissioning Cost</i>           | \$359,300      |
| <b>Salvage Value</b>                          |                |
| Inverts                                       | \$40,000       |
| PV Modules                                    | \$53,400       |
| Racking and Frames                            | \$80,000       |
| Fencing                                       | \$13,300       |
| Cabling and Wire                              | \$1,400        |
| <i>Total Salvage Value</i>                    | \$188,100      |
| Net Cost                                      | \$171,200      |
| Net Cost After 30 Years (2.5% Inflation Rate) | \$359,100      |

## 4 FINANCIAL ASSURANCE

The Applicant will demonstrate financial assurance or will provide a decommissioning bond, financial deposit, escrow, or letter of credit to the Town of LeRoy upon approval of a Major Collection System. The amount shall be determined at the sole discretion of the LeRoy Town Board and reviewed by the Town Engineer to cover decommissioning, removal of equipment, and re-landscaping of the Site.

Arcadis of New York, Inc.  
50 Fountain Plaza, Suite 600  
Buffalo  
New York 14202  
Phone: 716 667 0900  
Fax: 716 842 2612  
[www.arcadis.com](http://www.arcadis.com)

**OPTION TO GROUND LEASE AGREEMENT**

This OPTION TO GROUND LEASE AGREEMENT (this “**Agreement**”) is entered into as of the Effective Date by and between Owner and Optionee. In consideration of the mutual promises of the parties herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Optionee and Owner hereby agree as follows:

**BASIC OPTION PROVISIONS**

**EFFECTIVE DATE** December 18, 2019

**OWNER** Thomas S. Englerth, an individual, and Todd M. Englerth, and individual.

**OPTIONEE** FFP Origination, LLC, a Delaware limited liability company.

**PROPERTY** That real property consisting of the parcel(s) located in LeRoy, County of Genesee, State of New York, as more particularly described on **Exhibit A**, together with any improvements located thereon and rights, benefits and easements appurtenant to the parcel(s).

**LAND** Approximately fifty-six (56) acres of the Property as depicted on **Exhibit B**, together with all appurtenant rights and easements.

**OPTION PERIOD** Two (2) years from the Effective Date, which Optionee may extend for an additional period of one (1) year pursuant to **Section 2(a)**.

**OPTION PAYMENT**

**THIRD PARTY INTERESTS (List Section 7(f) items or “None”)** None

- LIST OF EXHIBITS**
- EXHIBIT A – Legal Description of the Property
  - EXHIBIT B – Depiction of the Land
  - EXHIBIT C – Form of Ground Lease

1. **Grant of Option.** Owner hereby grants to Optionee the exclusive option (the “**Option**”) to lease all or any portion of the Land and obtain any easements upon other portions of the Property reasonably required for access and transmission lines (the “**Easements**” and together with the Land, the “**Premises**”) that Optionee deems necessary for the Project (defined below), in accordance with this Agreement. If Optionee exercises the Option in accordance with Section 3 below, the parties shall enter into the ground lease agreement (the “**Lease**”) in the form attached hereto as Exhibit C and incorporated herein by this reference. “**Project**” shall mean the solar electric generating facility and any related facilities to be constructed and operated on the Premises.

2. **Option Period and Payment.**

(a) **Option Period.** The period during which the Option may be exercised shall commence on the Effective Date and continue until the expiration of the Option Period as described in the Basic Option Provisions above. Optionee shall have the right to extend the Option Period for one (1) additional one (1) year period, provided that Optionee delivers notice to Owner of its intent to extend the Option Period at least thirty (30) days prior to the original expiration of the Option Period. Notwithstanding the foregoing, the Option Period shall automatically terminate upon the earlier of (i) execution of the Lease by Owner and Optionee; (ii) Optionee providing written notice of its election to cancel this Agreement (in Optionee’s sole and absolute discretion); or (iii) 5:00 p.m. where the Property is located on the date of expiration of the Option Period.

(b) **Option Payment.** Within sixty (60) days after the Effective Date, Optionee shall pay to Owner a sum equal to the first four quarterly installments of the Option Payment. Optionee shall begin quarterly payments on the 1-year anniversary of the Effective Date and shall make each subsequent installment of the Option Payment on a quarterly basis thereafter.

3. **Notice of Exercise of Option.** Optionee may exercise the Option at any time during the Option Period by delivering to Owner a written notice exercising the Option (the “**Option Notice**”).

4. **Closing.** Upon delivery of the Option Notice to Owner in accordance with Section 3 above, the execution of the Lease by Owner and Optionee (the “**Closing**”) shall take place on the date designated by Optionee.

5. **Due Diligence; Title.**

(a) **Due Diligence.** Within ten (10) days following the Effective Date, Owner will provide Optionee with copies of all leases, contracts, studies, reports (including all environmental reports), maps, surveys, litigation documentation, correspondence and any other materials in Owner’s possession or reasonable control that are material to evaluating the Property.

(b) **Title.** Optionee, at Optionee’s cost, may obtain a preliminary title report (the “**Title Report**”) and/or survey (the “**Survey**”) for the Property. If Optionee, in its sole discretion, determines that the existence, use, operation, implementation or exercise of any matters identified by the Title Report or Survey could materially delay, interfere with, impair or prevent Optionee’s development, operation or financing of the Project, then Optionee may notify Owner of such issues and Owner shall cooperate with Optionee in efforts to obtain a release, subordination, non-disturbance agreement, consent or other agreement (in a form reasonably acceptable to Optionee) from the holder(s) of such rights.

6. **Right of Entry**

(a) **Investigations.** Beginning on the Effective Date and throughout the Option Period, Owner shall provide to Optionee, its employees, agents, contractors, and current or potential lenders or investors, reasonable access to the Property to conduct the Survey, evaluate, conduct and perform inspections, including soil and water testing, environmental assessments (Phase I and/or Phase II), engineering surveys, topographical, structural and geo-technical tests, and such other tests and inspections (collectively, the “**Investigations**”) that Optionee may deem necessary or advisable in its sole discretion, upon Optionee providing at least twenty-four (24) hours’ prior notice to Owner. Optionee shall keep the Property free from any liens arising out of any work performed, materials furnished or obligations incurred by or on behalf of Optionee in connection with the Investigations. Optionee shall remove, or cause the removal of, any such lien by bond or otherwise within sixty (60) days after Optionee becomes aware of the existence of such lien and if Optionee shall fail to do so, Owner may pay the amount necessary to remove such lien, without being responsible for investigating the validity thereof.

(b) **Optionee Indemnification of Owner.** Optionee shall indemnify, defend and hold Owner harmless from and against all claims, losses, liabilities, damages, losses, costs or expenses (including, without limitation, reasonable attorneys’ fees) (collectively, “**Claims**”) caused by entry onto the Property or portions thereof by Optionee, its agents or contractors during the Option Period; provided, however, that Optionee shall have no obligation or duty to indemnify, defend or hold Owner harmless from Claims (including, without limitation, Claims that the Property has declined in value) (i) arising out of, resulting from or incurred in connection with the results or findings of Optionee’s Investigations, or (ii) to the extent such Claims are due to the negligence or willful misconduct of Owner or its employees, agents or contractors. Notwithstanding the foregoing, Optionee’s indemnification obligations shall not extend to any conditions on, at or under the Property in existence as of the Effective Date, except and to the extent such conditions are aggravated by the gross negligence or willful misconduct of Optionee or its employees, agents or contractors. Optionee’s obligations hereunder shall survive the termination or expiration of the Option Period for one (1) year.

7. **Owner’s Representations and Warranties.** Owner makes the following representations and warranties, which shall be true as of the Effective Date, the date the Option is exercised by Optionee, and shall survive the expiration or termination of this Agreement:

(a) **Authority.** Owner has the full legal right, power and authority, without the consent of any additional party or parties, to enter into this Agreement and to perform, its obligations hereunder. The execution and delivery of this Agreement and the consummation of all transactions and performance of all obligations contemplated hereby have been duly authorized and will not conflict with, or result in a breach of any of the terms or provisions of, or constitute a default under, any document or instrument to which Owner is a party.

(b) **Binding on Owner.** The person executing this Agreement on behalf of Owner has full power and authority to bind Owner to the obligations set forth herein, and upon execution and delivery of the same, this Agreement will constitute a valid and binding instrument enforceable in accordance with its terms.

(c) **Claims or Actions.** There are no current, pending or contemplated actions, administrative inquiries or proceedings, suits, arbitrations, claims or proceedings commenced by any person or governmental entity affecting Owner, the Property or any portion thereof.

(d) **No Violation of Laws.** To the best of Owner’s knowledge, the Property is not in violation of any applicable federal, state, local or other laws, regulations or codes (the “**Laws**”) and Owner has not received notice pertaining to the violation of any Laws affecting the Property or any portion thereof, and Owner has no knowledge of any facts which might be a basis for any such notice.

(e) **Bankruptcy.** Owner has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of any voluntary petition by its creditors; (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets; or (iv) suffered the attachment or other judicial seizure of all or substantially all of its assets.

(f) **Fee Owner; Liens.** Owner holds the entire fee simple interest in the Property. Except as previously disclosed by Owner to Optionee in writing or as disclosed in the Title Report or Survey, Owner represents that there are no liens upon Owner's right, title or interest in the Property other than liens for monetary obligations for which Owner shall obtain a SNDA pursuant to Section 8(a). Except as otherwise listed in the Basic Option Provisions, Owner has not granted or entered into any other options, rights of first refusal, offers to purchase or lease or agreements to sell or lease all or any part of the Property ("Third Party Interests") other than with Optionee pursuant hereto.

(g) **Environmental Laws.** To the best of Owner's knowledge, the Property, including, but not limited to, all improvements, facilities, structures and equipment thereon, and the soil and groundwater thereunder, is not in violation of any Environmental Laws (as defined in the Lease). No release or threatened release of any Hazardous Substance (as defined in the Lease) has occurred, or is occurring, at, on, under, from or to the Property, and no Hazardous Substance is present in, on, under or about, or migrating to or from the Property that could give rise to a claim under any Environmental Laws. Neither Owner nor, to the best of Owner's knowledge, any third party has used, generated, manufactured, produced, stored or disposed of on, under or about the Property, or transported to or from the Property any Hazardous Substances in violation of Environmental Laws. To the best of Owner's knowledge there are not now and never have been any underground storage tanks, containers or wells located on or under the Property and there is no asbestos contained in, forming part of, or contaminating any part of the Property or improvements thereon.

During the Option Period, Owner shall timely notify Optionee in writing of any changes affecting any of the foregoing representations and warranties.

8. **Owner's Covenants.** Owner hereby covenants and agrees that, from and after the Effective Date, though the Option Period and, if the Option is exercised, thereafter during the period up to and including the Closing:

(a) **Owner Mortgages.** Owner shall use commercially reasonable efforts to deliver to Optionee a subordination, non-disturbance and attornment agreement(s), in form and substance reasonably acceptable to Optionee (each, a "SNDA") from the current holder(s) of any deed of trust, mortgage or other lien encumbering the Property. Owner shall make all payments required under any loan secured by a mortgage or deed of trust encumbering the Property and pay all real property taxes and assessments levied or imposed against the Property and before any of the same become delinquent. During the Option Period, Owner shall not mortgage or otherwise encumber its interest in the Property without providing Optionee with fifteen (15) days prior written notice thereof and an SNDA reasonably acceptable to Optionee from such holder(s) of any deed of trust, mortgage or other lien encumbering the Property.

(b) **Mortgage of Optionee's Interest.** Optionee shall have the right to obtain financing from one or more Financing Parties (as defined in the Lease) by way of a direct or collateral assignment of this Agreement to a Financing Party. Notwithstanding the fact that the parties to this Agreement have not yet executed the Lease, Owner agrees that the provisions of Section 14 (Mortgage of Tenant's Interest) of the Lease shall apply to any such financing related to this Agreement by any Financing Party.

(c) **Permits; Cooperation with Development.** Optionee shall have the right to apply for, at Optionee's expense, applications for land use entitlements, environmental approvals and permits, site plans, and subdivision or minor land division requests and parcel maps. Owner shall cooperate with Optionee in Optionee's efforts to obtain such approvals by executing such documents as are reasonably necessary.

(d) **Use of the Property.** Owner will not commit waste on the Property or otherwise materially change the Property, nor will Owner agree to grant or permit any easement, lease, license, right of access or other possessory right in the Premises to any third party without the prior written consent of Optionee. Owner shall materially comply with all Laws applicable to the Property.

9. **Insurance.** Effective as of the date Optionee enters the Property for the Investigations, and continuing through the Option Period, Optionee shall obtain and maintain liability insurance for its activities on the Property. Such insurance will be in the amount of One Million Dollars (\$1,000,000) per occurrence and will name Owner as an additional insured but only for liability arising out of Optionee's operations on the Property.

10. **Assignment.** Optionee shall have the right to assign its rights and obligations under this Agreement to any Optionee affiliate and/or party providing financing to Optionee without the prior consent of Owner. Optionee may not assign its rights and obligations under this Agreement to any other third party without the prior consent of Owner, not to be unreasonably withheld, conditioned or delayed. Owner shall not have any right to assign its rights and obligations under this Agreement without Optionee's prior written consent, not to be unreasonably withheld, conditioned or delayed.

11. **Termination.**

(a) **Default.** Each of the following events shall constitute an event of default by the applicable party and shall permit the non-defaulting party to terminate this Agreement and pursue the remedies described below, which, as to Owner, shall consist solely of the remedies described in Section 11(b) below, and, as to Optionee, shall consist of all other remedies at law or equity, including, but not limited to, specific performance of Owner's obligations under this Agreement and the Lease (provided the Option is exercised by Optionee) or to terminate this Agreement and recover all Option Payments paid to Owner.

(i) The failure of Optionee to pay amounts required to be paid hereunder when due, where such failure continues for thirty (30) days after Optionee has received written notice of such failure from Owner;

(ii) The failure of either party to perform any of the other terms, agreements or conditions set forth in this Agreement, where such failure continues for forty-five (45) days (or such longer period required to cure such failure, not to exceed ninety (90) days), after receipt of written notice from the other party; or

(iii) A party files for bankruptcy or has an involuntary petition in bankruptcy or a request for appointment of a receiver filed against it, where such involuntary petition or request is not dismissed within ninety (90) days after filing.

(b) **Owner Remedies – Liquidated Damages.** EXCEPT FOR (I) OPTIONEE'S INDEMNIFICATION OBLIGATIONS CONTAINED IN THIS AGREEMENT, AND (II) OWNER'S ABILITY TO SEEK DAMAGES OR ANY OTHER REMEDY AT LAW OR IN EQUITY FOR PERSONAL INJURIES OR PROPERTY DAMAGE CAUSED BY OPTIONEE WHILE ON THE PROPERTY, OWNER'S SOLE REMEDY UPON AN EVENT OF DEFAULT BY OPTIONEE SHALL BE TO RETAIN THE OPTION PAYMENTS IT HAS THEN RECEIVED AS LIQUIDATED DAMAGES



FOR SUCH DEFAULT OF OPTIONEE, AND IN SUCH EVENT, OPTIONEE SHALL HAVE NO FURTHER RIGHT WHATSOEVER TO LEASE THE PREMISES AND OWNER SHALL HAVE NO RIGHT TO SEEK ANY FURTHER DAMAGES OR REMEDY, AT LAW OR IN EQUITY. THE PARTIES AGREE THAT IT WOULD BE IMPRACTICAL AND/OR EXTREMELY DIFFICULT TO ASCERTAIN THE ACTUAL DAMAGES THAT WOULD BE SUFFERED BY OWNER AS A RESULT OF ANY SUCH DEFAULT BY OPTIONEE, AND THAT UNDER THE CIRCUMSTANCES EXISTING AS OF THE DATE OF THIS AGREEMENT, THE LIQUIDATED DAMAGES PROVIDED FOR IN THIS SECTION REPRESENT A REASONABLE ESTIMATE OF THE DAMAGES WHICH OWNER WILL INCUR AS A RESULT OF ANY SUCH DEFAULT BY OPTIONEE. SUCH RETENTION OF THE OPTION PAYMENTS BY OWNER IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO OWNER AND SHALL NOT BE DEEMED TO CONSTITUTE A FORFEITURE OR PENALTY. OPTIONEE AND OWNER ACKNOWLEDGE THAT THEY HAVE READ AND UNDERSTAND THE PROVISIONS OF THIS SECTION 11 AND BY THEIR INITIALS IMMEDIATELY BELOW AGREE TO BE BOUND BY ITS TERMS.

\_\_\_\_\_  
Owner's Initials

\_\_\_\_\_  
Optionee's Initials

(c) **Termination by Optionee Absent Default by Owner.** If Optionee determines, in its sole and absolute discretion, that the Land is unsuitable or undesirable for leasing by Optionee, Optionee shall have the right to terminate this Agreement by giving written notice thereof to Owner and this Agreement shall terminate on the date specified in Optionee's written notice. If the Agreement is terminated during the Option Period pursuant to the preceding sentence, then neither party shall have any further rights or obligations hereunder; provided, however, that Owner shall retain all Option Payments it shall have received hereunder prior to the date of termination of the Option Agreement and any provisions hereof that expressly survive termination of this Agreement shall remain in effect.

12. **Arbitration.** The parties agree that any dispute, controversy, claim or disagreement between or among them arising out of, concerning or relating to this Agreement will be settled by arbitration administered by the American Arbitration Association. The arbitrator will be, to the fullest extent available, either a retired judge or selected from a panel of persons trained and expert in the subject area of the asserted claims. All claims will be decided by one arbitrator, to be selected in accordance with the rules of the American Arbitration Association. An award may be entered against a party who fails to appear at a duly noticed hearing. The decision of the arbitrator may be entered and enforced as a final judgment in any court of competent jurisdiction.

(a) **Place of Arbitration.** The place of arbitration will be the city of Buffalo, New York, unless the American Arbitration Association has no offices in that location, in such case the place of arbitration shall be the closest American Arbitration Association office.

(b) **No Consolidation.** It is the intent of both parties that they will only apply for dispute resolution under this Section 12 in an individual capacity and not as a plaintiff or class member in any purported class or representative proceeding, or in a private attorney general capacity. Accordingly, the arbitrator is not empowered to consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

(c) **Findings and Reasons Required.** The arbitrator will prepare in writing and provide to the parties, an award including factual findings and the reasons on which their decision is based.

(d) **No Power to Commit Errors.** The arbitrator will not have the power to commit errors of law or legal reasoning, and the award is subject to review for legal error, confirmation, correction, or vacatur in a state court of competent jurisdiction.

(e) **Provisional Remedies.** This Section 12 will not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

(f) **Confidentiality.** The parties will maintain the confidential nature of the arbitration proceeding and the arbitration award, including the hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision.

(g) **Punitive or Exemplary Damages.** In any arbitration arising out of or related to this Agreement, the arbitrator is not empowered to award punitive or exemplary damages, except where mandated by statute, and the parties waive any right to recover any such damages. This Section 12 will survive the termination or expiration of this Agreement.

(h) **Fees.** The parties will share equally the arbitrator's fees and other costs of the arbitration, and costs of appeal. If any party fails or refused to pay its share of the cost of arbitration, the other party may, at its option, (i) elect to pay the entire cost of the arbitration, in which case the obligation of the nonpaying party to otherwise participate in the arbitration is not excused; or (ii) immediately proceed to litigation. Regardless of which party ultimately prevails, the court, if litigation is elected, or the arbitrator, if arbitration is elected, will award costs and expenses incurred as a result of such failure or refusal to the party who paid the costs of arbitration.

(i) **Federal Arbitration Act.** The foregoing arbitration provisions will be construed and enforced in accordance with the Federal Arbitration Act, notwithstanding the provisions of this Agreement specifying any particular state or national law as the governing law.

13. **Miscellaneous.**

(a) **Attorneys' Fees.** In the event of any action between the parties hereto for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees actually incurred, together with its other reasonable out-of-pocket costs and expenses, including expert witness fees, accounting and other professional fees.

(b) **Waiver of Jury Trial.** EACH PARTY HERETO WAIVES, TO THE FULL EXTENT PERMITTED BY LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS AGREEMENT OR ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE.

(c) **Confidentiality.** Owner will maintain in strict confidence, for the sole benefit of Optionee, the existence and the terms of this Agreement and the transactions contemplated herein, provided, however, Owner may disclose this Agreement and the transactions contemplated herein to Owner's affiliates, subsidiaries, attorneys, consultants or other agents or professional advisors, or as required by law.

(d) **Counterparts.** This Agreement may be executed in counterparts. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby agree signatures transmitted by facsimile or email shall be legal and binding and shall have the same full force and effect as if an original of this Agreement had been delivered and hereby waive any defenses to the enforcement of the terms of this Agreement based on the foregoing forms of signature.

(e) **Time Periods.** If any date for exercise of any right, giving of any notice, or performance of any provision of this Agreement falls on a Saturday, Sunday or holiday, the time for performance will be extended to the next business day.

(f) **No Waiver.** The failure of either party to require strict performance by the other party of any provision of this Agreement will not be considered a waiver of any other provision, nor prevent any party from enforcing that or any other performance at any time thereafter.

(g) **Further Assurances.** The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Agreement.

(h) **Governing Law.** This Agreement is made pursuant to, and shall be construed and enforced in accordance with, the laws of the state of New York.

(i) **Amendments; Entire Agreement.** This Agreement contains the entire agreement between the parties and is intended by the parties to set forth their entire agreement with respect to the subject matter hereof, and any agreement hereafter made shall be ineffective to change, modify or discharge this Agreement, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought. Owner and Optionee agree that all prior or contemporaneous oral or written agreements between or amongst themselves or their agents are merged in or revoked by this Agreement.

(j) **Partial Invalidity.** If any term or provision of this Agreement is, to any extent, determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(k) **Successors and Assigns.** This Agreement, and the rights and obligations of the parties hereto, shall be binding upon and inure to the benefit of the parties and their respective successors, heirs, executors, administrators and permitted assigns.

(l) **Interpretation.** Each party acknowledges that it has been represented by or had the opportunity to be represented by legal counsel in its review of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

(m) **Survival of Terms.** All covenants, representations and warranties contained in this Agreement shall survive Closing. Those provisions in this Agreement which by their terms are intended to be or must be performed in whole or in part after the Closing or after termination of this Agreement shall survive Closing and the termination of this Agreement.

(n) **Headings.** The headings herein are inserted only for convenience and shall have no effect in interpreting the meaning of any provision.

(o) **Time is of the Essence.** Time is of the essence in this Agreement and each and every provision of this Agreement.

(p) **Memorandum of Option.** Contemporaneously with the execution of this Agreement, the parties shall execute and acknowledge a Memorandum of Option to Lease Agreement to be recorded in the official records of the county where the Property is located (the "**Memorandum**") in a form reasonably

acceptable to Owner and Optionee. Optionee may record the Memorandum at any time after the Effective Date.

(q) **Notices.** All notices, approvals, disapprovals or elections required or permitted to be given under this Agreement shall be in writing and shall be (i) delivered personally; (ii) mailed by certified or registered mail, return receipt requested; (iii) sent by email transmission; (iv) sent by facsimile transmission; or (v) sent by Federal Express or other professional carrier, to the parties at the addresses listed below or at such other addresses as shall be designated by Optionee or Owner in writing. Except as expressly set forth in this Agreement, notices shall be deemed given upon delivery or tender of delivery to the intended recipient; provided, however, that (x) notice sent by email or facsimile shall only be deemed received when both (A) the sender has electronic confirmation that it was sent to all parties (and has retained a confirmation of the delivery) and (B) at least one addressee entitled to notice for the applicable party has acknowledged receipt of the transmission; and (y) if a post office box is provided as the notice address, notice shall be deemed to have been given or made five (5) days after being deposited in the United States mail with appropriate postage prepaid. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

**Owner Address**

Thomas S. Englerth  
6740 Main Rd.  
Stafford, NY 14143

Phone: (585) 746-2525  
E-mail: N/A

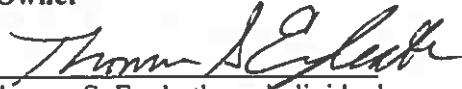
**Optionee Address**

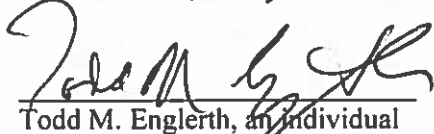
c/o Forefront Power, LLC  
Attn: Legal  
100 Montgomery St., Suite 725  
San Francisco, CA 94104

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, and intending to be bound hereby, the parties hereto have executed this Agreement on the date written above.


“Owner”

  
Thomas S. Englerth, an individual

  
Todd M. Englerth, an individual

“Optionee”

FFP Origination, LLC,  
a Delaware limited liability company

By:   
Name: Paul Walker  
Title: Vice President

**Exhibit A**

**Legal Description of Property**

ALL THAT TRACT OR PARCEL OF LAND, situate in the Town of LeRoy, County of Genesee and State of New York, being the south half part of that certain lot, part of a certain large tract of land commonly called the Triangular Tract and on a map thereof made by Richard M. Stoddard and filed in the Clerk's Office of said County, distinguished as Lot Number Ten, in the third section of Town Number One, containing fifty-three and thirty-two hundredths acres of land more or less.

ALSO ALL THAT OTHER TRACT OR PARCEL OF LAND, situate in the Town, County and State aforesaid, known and distinguished as the exact north half part of the two following described parcels of land viz:

BEING the east part of Lot Number 216 in Township Number One in the 100,000 Acre Tract, containing forty-nine and twenty hundredths acres, bounded north by Lot Number 204, east by the west line of the Triangle, south by Lot Number 228, and west by land heretofore deeded to William Bishop, Excepting, from said premises twenty acres off the west side thereof;

And also the north part of Lot Number One in the Second Section of Town Number One of the Triangular Tract, beginning at the northwest corner of said lot and running thence south along the west line of said Lot 17 chains, 75 links;

Thence east 57 chains, 25 links to the east line of said lot;

Thence north on said east line to the northeast corner of said lot;

Thence west 56 chains, 34 links on the north line of said lot to the place of beginning, containing one hundred and six and thirty-four hundredths acres of land, excepting and reserving thirty acres off from the east part thereof heretofore deeded to Cynthia Olmstead.

The said north part of the above described premises hereby intended to be conveyed are to be laid off from the south part by a line running east and west through the center of the same and to contain fifty-three acres of land or thereabouts, measuring one-half the highway or road.

Also hereby conveying as aforesaid the right and privilege of entering upon, using the occupying forever, a strip of land six feet in width running south from the land above conveyed upon the south part of the same twenty or thirty rods to a point near a barn situate on said south part and nearly west of said barn, and to include such spring or water thereon as Miles P. Lampton has chosen for the purpose of laying an aqueduct underground and building a crib around such spring, at least twelve feet square and of keeping the same in repair and conducting water therefrom for all time to come, the aqueduct to be by pump-log of the usual bore.

Also excepting and reserving out of and from the above described premises a certain piece or strip of land containing about three and one tenth acres of land, more or less, to be laid off the south end of the wood lot on aforesaid premises and being the same land conveyed by Lucy M. Lent to Ambrose Butler by deed recorded in the Genesee County Clerk's Office August 7, 1919 in Liber 242 of Deeds at page 99.

**ALSO EXCEPTING AND RESERVING THEREFROM, lands conveyed in Deeds recorded in the Genesee County Clerk's Office in Liber 440 of Deeds, at page 888, in Liber 440 of Deeds, at page 891, in Liber 629 of Deeds, at page 44 and Deed recorded under Instrument # DE2017-471.**

**Exhibit B**

**Depiction of the Land**





**Exhibit C**

**Form of Ground Lease**

**GROUND LEASE**

This GROUND LEASE AGREEMENT (this "Lease") is entered into as of the Effective Date by and between Landlord and Tenant (defined below).

In consideration of the mutual promises of the parties herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Tenant and Landlord hereby agree as follows:

**BASIC LEASE PROVISIONS**

**EFFECTIVE DATE**

\_\_\_\_\_, 201\_\_.

**LANDLORD**

Thomas S. Englerth, an individual, and Todd M. Englerth, and individual.

**TENANT**

FFP Origination, LLC, a Delaware limited liability company.

**PROPERTY**

Those certain parcels of real property, any improvements located thereon and rights, benefits and easements appurtenant to the parcels located in LeRoy, County of Genesee, State of New York as more particularly described on Exhibit A.

**LAND**

Approximately fifty-six (56) acres of the Property as more particularly described on Exhibit B, together with all appurtenant rights and easements, including, without limitation, the right to access and utilize all radiant energy emitted from the sun upon, over and across said real property.

**BASIC RENT**

From the Effective Date until  
the Commercial Operation Date

From the Commercial  
Operation Date and continuing  
for the remainder of the Term

**TERM**

The period commencing on the Effective Date and expiring on the date that is twenty (20) years after the Commercial Operation Date (defined below) (the “**Initial Term**”). Tenant shall have the right to extend the Initial Term for two (2) additional five (5) year periods (each a “**Renewal Term**”), provided that Tenant delivers notice to Landlord of its intent to exercise the first Renewal Term at least thirty (30) days prior to the expiration of the Initial Term and notice of its intent to exercise the second Renewal Term at least thirty (30) days prior to the expiration of the first Renewal Term. The Initial Term and each Renewal Term are referred to herein collectively as the “**Term**”.

**ACCESS EASEMENT**

A non-exclusive, appurtenant easement to access the Land and to construct, maintain, reconstruct, and/or repair a road and/or pedestrian access on, over, across and through the Property in the locations more particularly described on Exhibit C (the “**Access Easement Area**”).

**TRANSMISSION  
EASEMENT**

A non-exclusive, appurtenant easement for constructing, placing, operating, maintaining, reconstructing, replacing, rebuilding, upgrading, removing, inspecting, modifying and/or repairing aboveground electrical transmission lines and a line or lines of poles or towers, together with such wires and cables and communications lines as from time to time are suspended therefrom, and/or underground wires and cables, for the transmission of electrical energy and/or for communication purposes, and all necessary and proper anchors, support structures, foundations, footings, cross arms and other appliances and fixtures for use in connection with said towers, wires and cables, in each case upon, through, over, across and/or under, as applicable, the Property in the location more particularly described on Exhibit D (the “**Transmission Easement Area**” and together with the Access Easement Area, collectively, the “**Easement Areas**” and collectively known as the “**Easements**”).

**LIST OF EXHIBITS**

EXHIBIT A – Legal Description of the Property

EXHIBIT B – Legal Description of the Land

EXHIBIT C – Access Easement Area

EXHIBIT D – Transmission Easement Area

EXHIBIT E – Form of Memorandum of Lease

1. **Basic Lease Provisions.** The Basic Lease Provisions set forth above and the Exhibits attached to this Lease are each incorporated into the body of this Lease as if set forth in full.

2. **Lease of Land.** Landlord hereby leases and grants to Tenant exclusive rights to the Land and Tenant agrees to and does hereby lease from Landlord, subject to the terms and conditions of this Lease, the Land, together with all right, title and interest of Landlord in and to all easements, rights, privileges and appurtenances to the same belonging or in any way appertaining thereto, to have and to hold the aforesaid Land and appurtenant interests unto Tenant for the Term (defined below) for the purposes of constructing, placing, operating, maintaining, reconstructing, replacing, rebuilding, upgrading, removing, inspecting, modifying and/or repairing a solar electric generating facility, which may include photovoltaic solar panels, foundations, poles, towers, mounting systems, inverters, transformers, integrators, energy storage facilities, overhead or underground electrical and communications lines and conduits and additional utility lines, cables, conduits, transformers, wires, meters, monitoring equipment, substations, switch yards, and other related equipment and appurtenances (the "Solar Facility").

3. **Term of Lease.** The Term of this Lease shall be the period described in the Basic Lease Provisions above. Notwithstanding the foregoing, Tenant may terminate this Lease at any time prior to the Commercial Operation Date for any reason or no reason whatsoever, without penalty, by providing written notice to Landlord prior to the Commercial Operation Date. The "Commercial Operation Date" is the date on which the Solar Facility achieves commercial operation.

4. **Rent.** Tenant covenants and agrees to pay Landlord during the Term the amount of the "Basic Rent" described in the Basic Lease Provisions above. Basic Rent due from the Effective Date and ending on the Commercial Operation Date shall be payable in advance in monthly installments and shall be due on or before the fifth (5<sup>th</sup>) business day of the applicable calendar month (prorated for any partial monthly period). Basic Rent due from the Commercial Operation Date and throughout the rest of the Term shall be payable annually in advance and shall be due on or before the fifth (5<sup>th</sup>) business day after the Commercial Operation Date and each anniversary thereafter during the Term (prorated for any partial annual period).

5. **Easements and Non-Interference.**

(a) **Easement Areas.** If identified in the Basic Lease Provisions above, Landlord hereby grants to Tenant the Easements described in the Basic Lease Provisions, if any, for a period coterminous with this Lease. Notwithstanding the fact that the Easements, if any, are non-exclusive, any concurrent uses of the Easement Areas by Landlord or any third parties shall not interfere with Tenant's rights granted herein. The Land together with easements appurtenant to the Land and the Easement Areas, if any, shall be referred to herein as the "Premises". If Tenant determines in its reasonable discretion that any additional easements across the Property are necessary, useful or appropriate for the construction and/or operation of the Solar Facilities, Landlord shall cooperate in granting or agreeing to such easements within fifteen (15) days of Tenant's request, including, but not limited to, by amendment to this Lease or by separate agreement.

(b) **No Interference.** Landlord grants to Tenant the right and privilege to the free and unobstructed insolation of solar energy over and to the Land. Landlord's activities and any grant of rights Landlord makes to any person or entity, whether located on the Premises or elsewhere, shall not, currently or prospectively, interfere with the construction, installation, maintenance, or operation of the Solar Facility and/or access over the Premises to such Solar Facility and/or Tenant's rights granted hereunder to use the Premises as permitted pursuant to this Lease. Without limiting the generality of the foregoing, Landlord shall not (and shall not allow any other party to) disturb or interfere with the unobstructed flow of solar energy upon, over and across the Land, whether by placing towers or antennas of any type, planting trees

or constructing buildings or other structures or facilities, or by engaging in any other activity on the Property or elsewhere that might delay the installation of, disrupt, or otherwise cause a decrease in the output or efficiency of the Solar Facility. Tenant may, as reasonably necessary, remove, trim, prune, top or otherwise control the growth of any tree, shrub, plant or other vegetation; dismantle, demolish, and remove any improvement, structure, embankment, impediment, berm, wall, fence or other object, on or that intrudes (or could intrude) into the Land that could obstruct, interfere with or impair the Solar Facility, the unobstructed flow of solar energy or the use of the Land by Tenant hereunder.

(c) **Temporary Easement.** Landlord grants to Tenant the right, privilege, and non-exclusive easement, to be located at a mutually acceptable location on a portion of the Property, to be used for temporary (i) storage and staging of tools, materials and equipment; (ii) construction laydown; (iii) parking of construction crew vehicles and temporary construction trailers; (iv) vehicular and pedestrian access and access for rigging and material handling; and (v) construction or installation of other facilities reasonably necessary to construct, erect, install, expand, modify or remove the Solar Facility. Tenant shall return such temporary easement area to the condition existing immediately prior to such use by Tenant to the extent reasonably practical (reasonable wear and tear, casualty and condemnation excepted).

6. **Solar Facility; Personal Property; Use of Premises.**

(a) **Improvements as Personal Property.** The parties agree that any improvements, equipment, buildings, foundations, poles, towers or transmission lines at any time constructed by or for Tenant on the Premises, or at any time acquired by or for Tenant and located on the Premises, including, without limitation, the Solar Facility (the “**Improvements**”) are hereby severed by agreement and intention of the parties and shall remain severed from the Premises, and shall be considered with respect to the interests of the parties hereto as the property of Tenant or a Financing Party (defined below) designated by Tenant, and, even though attached or affixed to or installed upon the Premises, shall not be considered to be fixtures or a part of the Premises and shall not be or become subject to the lien of any mortgage or deed of trust heretofore or hereafter placed on the Premises by Landlord. Landlord waives any rights it may have under the laws of the state where the Premises is located, arising under this Lease, or otherwise, to any lien upon, or any right to distress or attachment upon, or any other interest in, any item constituting part of the Solar Facility or any other equipment or other Improvements and consents to the filing by Tenant, on behalf of Landlord, of a disclaimer of the Solar Facility and the Improvements as fixtures of the Premises in the official records of the county where the Property is located. The parties further agree that all Environmental Attributes (defined below) and Solar Incentives (defined below) belong solely to Tenant and shall remain the personal property of Tenant and shall not attach to or be deemed a part of, or fixture to, the Premises. The Solar Facility and other Improvements shall at all times retain the legal status of personal property as defined under Article 9 of the Uniform Commercial Code as adopted by the state of New York. “**Environmental Attributes**” shall mean, without limitation, carbon trading credits, renewable energy credits or certificates, emissions reduction credits, emissions allowances, green tags, tradable renewable credits, or Green-e® products. “**Solar Incentives**” include, without limitation, any accelerated depreciation, installation or production-based incentives, investment tax credits and subsidies.

(b) **Use of Land.** Tenant and its designees shall have exclusive use of the Land during the Term. Tenant may use the Premises for purposes related to the construction, placement, operation, maintenance, reconstruction, replacement, rebuilding, upgrading, removal, inspection, modification and/or repair of the Solar Facility and the other Improvements.

(c) **Additions and Removals.** Tenant shall have the right, but not the obligation, at any time and from time to time during the Term, at its expense, to (i) make additions, changes, alterations, or improvements, structural or otherwise, to the Solar Facility; and (ii) demolish and remove the Solar Facility or any other Improvements hereafter located on the Premises.

7. **Mineral Rights/Surface Use.** This Lease does not demise or lease to Tenant any oil, gas or minerals in place underneath the surface of the Premises or the right to extract and remove the same, and subject to the following terms and provisions of this Section 7, Landlord's rights, if any, in such oil, gas, and minerals are reserved to, and retained by, Landlord. During the Term, Landlord may not use, or permit the use of the Premises from the surface to a depth of five hundred (500) feet below the surface, for the purpose of exploring for, extracting, producing or mining such oil, gas or minerals. Landlord may explore for, extract or produce oil, gas and minerals from the Property in a manner which does not interfere with Tenant's use of the Premises or affect the Solar Facility and utilizes a method, such as "directional drilling" which does not require the use of the Premises to a depth of five hundred (500) feet below the surface.

8. **Insurance and Waiver of Subrogation.**

(a) **Landlord and Tenant's Liability Insurance.** Landlord and Tenant shall each, during the term hereof, obtain, maintain and keep in full force and effect, with the other party named as additional insured (with the exception of Workers Compensation) therein as its interest may appear, liability insurance applying to the use and occupancy of the Premises in no less than the following amounts:

(i) **Worker's Compensation.** If such party has employees, the applicable party shall maintain worker's compensation insurance in accordance with federal and state statutory requirements.

(ii) **General Liability.** General liability insurance including bodily injury, property damage, products/completed operations, contractual and personal injury liability with a combined single limit of at least one million dollars (\$1,000,000) per occurrence and at least two million dollars (\$2,000,000) annual aggregate.

(iii) **Automobile Liability.** Automobile liability insurance including bodily injury and property damage arising out of any vehicle brought onto the Premises and operated by Tenant.

(b) **Waiver of Subrogation.** Landlord and Tenant each hereby waive any right of recovery against the other and the authorized representatives of the other for any loss or damage that is covered or required by this Lease to be covered by any policy of insurance maintained with respect to the Premises, the Improvements or any operations therein, even though such loss or damage might have been occasioned by the negligence of such party. Each party shall cause insurance policies relating to this Lease, the Property, the Premises and the Improvements to provide that such insurers waive all right of recovery by way of subrogation against either party in connection with any claim, loss or damage covered by such policies.

9. **Taxes and Assessments.** "Taxes and Assessments" shall mean all taxes, assessments or other impositions, general or special, ordinary or extraordinary, of every kind or nature, which may be levied, assessed or imposed upon or with respect to the Property or any part thereof, including the Premises, or upon any buildings, improvements, fixtures, equipment or personal property at any time situated thereon. Landlord shall pay before the same become delinquent (i) any transfer or conveyance tax arising out of this Lease, and (ii) any Taxes and Assessments which accrue during the Term and are imposed on, or arise in connection with, the Property (except those that are the responsibility of Tenant pursuant to clause (a) below), including any annual increases thereon. Tenant shall not be responsible for payment of any municipal, state or federal income, income profits or revenue tax imposed on rent, inheritance, estate, succession, transfer, gift, franchise, corporation, income or profit tax or capital levy or any tax related to a change of ownership of the Property.

(a) **Tenant's Taxes.** Throughout the Term, Tenant shall pay, or cause to be paid, all Taxes and Assessments that may be imposed on the Improvements, and Tenant shall pay, or cause to be paid, any increase in Taxes and Assessments accruing during the Term against the Premises to the extent resulting

directly from the presence of Tenant's Improvements on the Premises. Landlord shall promptly forward to Tenant all notices, bills or other statements received by Landlord concerning any Taxes and Assessments. To the extent that any of the Taxes and Assessments payable by Tenant are jointly assessed with Landlord's real estate taxes, assessments and other impositions, the parties shall cooperate in a good faith effort to cause such Taxes and Assessments to be separately assessed. Tenant shall pay all such Taxes and Assessments directly to the taxing authority as the same become due and payable.

(b) **Right to Contest Assessment.** Tenant shall have the right in its own name to contest the validity or amount, in whole or in part, of any Taxes or Assessments for which Tenant is responsible by appropriate proceedings timely instituted, provided that any such contest by Tenant shall effectively stay or prevent any official or judicial sale of the Premises or any part thereof by reason of nonpayment of any Taxes or Assessments. Landlord shall, at Tenant's request, and expense, fully cooperate with Tenant in all reasonable ways to contest any Taxes and Assessments. Tenant shall hold Landlord harmless from any costs and expenses related to any such contest, and Tenant shall promptly pay any valid final adjudication enforcing any Taxes and Assessments. Any refund of Taxes and Assessments payable as a result of any such proceedings attributable to a period of time during the Term shall be the property of Tenant. Tenant shall have the right to enter into an agreement for payment in lieu of taxes with the applicable taxing authority, and Landlord shall, at Tenant's request and expense, fully cooperate with Tenant in Tenant's effort to enter into such agreement and execute such documents as are reasonably necessary.

(c) The provisions of this Section 9 shall survive the expiration or earlier termination of this Lease.

10. **Right to Control Access.** Subject to the terms of this Lease and applicable law, Tenant shall have the right under the Lease to control and restrict access onto and over the Land and exclude others (other than any parties with preexisting easement rights of record or other rights approved by Tenant), and Tenant may, at its sole expense, construct and maintain security devices on and surrounding the Land which Tenant deems appropriate and necessary for the protection of the Solar Facility, including, but not limited to, any type of fencing, security monitoring or other security safeguards.

11. **Subordination; Nondisturbance.** Landlord shall, at its expense, on or before the first payment of Basic Rent is due, unless earlier requested by Tenant, and as a condition to Tenant's obligation to make any payment of Basic Rent, deliver to Tenant a subordination, non-disturbance and attornment agreement(s) (each a "SNDA") from the current holder(s) of any deed of trust, mortgage or other lien encumbering the Premises, in form and substance reasonably acceptable to Tenant, which provides, among other things, that Tenant's occupancy or use of the Premises in accordance with the terms of this Lease will not be disturbed. Such SNDA shall be recorded in the official records of the county where the Premises is located.

12. **Repairs, Maintenance, Damage or Destruction of the Premises.** Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations in or to the Premises. Except in the case of Landlord's negligence or willful misconduct or as expressly set forth in this Lease, Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Premises and the Improvements thereon throughout the Term (including any repairs or reconstruction as a result of damage or destruction due to casualty), provided that Tenant shall have no obligation to construct or reconstruct any Improvements or to maintain the Improvements in any particular condition or state of repair so long as the Improvements comply with Legal Requirements. All insurance proceeds paid on account of any damage or destruction occurring on the Premises or with respect to the Solar Facility or other Improvements under the insurance policies maintained by Tenant shall be paid to Tenant. If the Improvements, including the Solar Facility, are damaged or destroyed and Tenant elects not to repair or restore the Improvements or repair or construct a new Solar Facility, Tenant shall have the right, without waiving or exercising other rights or remedies, to terminate this Lease and remove any remaining

Improvements in accordance with Section 17, without penalty, effective as of the date of the damage or destruction by giving written notice to Landlord.

13. **Condemnation.** If, at any time during the Term, all or any part of the Premises shall be condemned or transferred in lieu of condemnation, the net proceeds of such condemnation or transfer shall be divided between Landlord and Tenant in the proportions specified in the condemnation award or agreement of transfer or, if not so specified, in proportion to the fair value of Landlord's and Tenant's respective interests in this Lease and the Premises, provided that to the extent the net proceeds of any condemnation or transfer in lieu of condemnation are attributable to the Improvements, such proceeds shall be paid solely to Tenant with Landlord receiving any proceeds attributable solely to the residual value of the fee estate of the Premises. For the purpose of this Section 13, the net proceeds of a condemnation or transfer in lieu of condemnation shall mean the total proceeds of such condemnation or transfer less the costs and expenses incurred in connection therewith (including legal fees).

If the entire Land is condemned or transferred in lieu of condemnation, the Term shall terminate at the time title vests in the condemning authority. If a portion of the Premises is condemned or transferred in lieu of condemnation, the Lease shall continue in full force and effect with respect to that portion of the Premises which has not been so condemned or transferred and Basic Rent shall be equitably adjusted. Notwithstanding the foregoing, Tenant may terminate this Lease without penalty by giving written notice of termination to Landlord if, in Tenant's sole and absolute discretion, the Premises is not suitable for Tenant's intended use following such condemnation or transfer in lieu thereof.

14. **Mortgage of Tenant's Interest.**

(a) **Leasehold Financing.** Tenant may obtain financing pertaining to the Solar Facility from one or more Financing Parties (defined below), including but not limited to, (i) development, bridge, construction, term or permanent financing, (ii) investment capital or working capital and/or (iii) structured tax equity financing, securitization financing, sale-leaseback financing, and/or any other debt or equity financing, including without limitation, any renewals, refundings, extensions or refinancings of any of the foregoing. In connection therewith Tenant may enter into various agreements and execute various documents relating to such financing, which documents may, among other things, assign this Lease and the Easements and any other easements benefitting the Premises by way of direct or collateral assignment to a Financing Party, assignment of the Easements and a lease of the Solar Facility from such Financing Party to Tenant, grant the Financing Parties a sublease or other real property interest in Tenant's interest in and to the Premises, grant a first priority security interest in Tenant's interest in the Improvements and/or this Lease and Tenant's other interests in and to the Premises, including, but not limited to, any Easements, rights of way or other similar interests (such documents, "**Financing Documents**"). Landlord acknowledges notice of the foregoing and consents to the foregoing actions and Financing Documents described above, and Landlord agrees to execute, and agrees to cause any and all of Landlord's lenders to execute, such subordination agreements, consents, estoppels and other acknowledgements of the foregoing as Tenant or the Financing Parties may request. For purposes herein, "**Financing Party**" or "**Financing Parties**" shall include (x) any individual, entity, financial institution, leasing company, or lender providing funds or extending credit to Tenant or its affiliates and (y) any collateral or administrative agent acting on behalf of any such individual, entity, financial institution, leasing company, or lender in connection with such financing.

(b) **Financing Party Protections.** Landlord agrees not to accept a voluntary surrender of this Lease at any time while a Financing Party has a lien on the leasehold estate; and Landlord and Tenant further agree that, so long as any such Financing Party shall have a lien on the leasehold estate, without the prior written consent of such Financing Party, Landlord and Tenant will not subordinate this Lease to any



mortgage which may hereafter be placed on the fee of the Land or amend or alter any terms or provisions of this Lease. This provision is for the express benefit of and shall be enforceable by such Financing Party.

(c) **Financing Party Cure Rights.** If at any time any Financing Party (or Tenant on behalf of a Financing Party) shall have given to Landlord, a notice specifying the name and address of such Financing Party for purposes of receiving notice, Landlord shall send by personal delivery or by certified or registered mail or overnight courier service to such Financing Party a copy of each notice of default or other notice at the same time as and whenever any such notice of default or other notice shall thereafter be given by Landlord to Tenant, addressed to such Financing Party at the address last furnished to Landlord. No notice of default by Landlord shall be deemed to have been given unless and until a copy thereof shall have been so given to such Financing Party. Tenant irrevocably directs that Landlord accept, and Landlord agrees to accept, performance and compliance by any Financing Party (or its designee) of and with any term, covenant or condition on Tenant's part to be kept, observed or performed under this Lease with the same force and effect as though kept, observed or performed by Tenant. The Financing Party shall have the same period after delivery of notice of default to remedy the default, or cause the same to be remedied, but not the obligation to so remedy or commence to remedy, as is given to Tenant, plus the following additional time periods following the expiration of Tenant's cure period described in Section 16 below: (i) thirty (30) days in the event of a monetary default; and (ii) ninety (90) days in the event of a non-monetary default. A Financing Party shall have the absolute right to enforce its lien and acquire title to the leasehold estate (directly or through a designee) by any lawful means, including foreclosure or assignment in lieu of foreclosure, and thereafter assign or transfer the leasehold estate to a third party. The commencement of a judicial or non-judicial foreclosure proceedings by a Financing Party shall be deemed the commencement of a non-monetary cure provided that the Financing Party thereafter diligently prosecutes the same and upon acquisition by either the Financing Party or any other direct purchaser or direct transferee of Tenant's interest under this Lease, whether at a judicial foreclosure, foreclosure under a power of sale, trustee's sale or by deed or assignment in lieu of foreclosure, such Financing Party, purchaser or transferee commences within ninety (90) days of acquiring such interest, and thereafter diligently prosecutes to completion, curing all defaults hereunder reasonably capable of being cured by such Financing Party or transferee.

(d) **Notice to Financing Parties.** In case of the termination of this Lease by reason of the happening of an Event of Default (defined below) or the leasehold estate is foreclosed or rejected by the Tenant in bankruptcy, Landlord shall give notice thereof to any Financing Party whose notice details have been provided to Landlord in accordance with Section 14(c), which notice shall be sent by personal delivery or by registered or certified mail or overnight courier service to such Financing Party at the address last furnished to Landlord. If, within ninety (90) days after the mailing of such notice, such Financing Party shall notify Landlord that such Financing Party or its designee desires to enter into a lease of the Premises with Landlord, Landlord shall join with the Financing Party, or its designee, in executing and delivering a new lease of the Premises to such Financing Party, or its nominee, for the remainder of the Term, at the Basic Rent and upon the terms, covenants and conditions contained in this Lease. Any new lease shall be superior to all rights, liens and interests intervening between the date of this Lease and the granting of a new lease and shall be free of any and all rights of Tenant under this Lease.

(e) **Financing Party Obligations.** No Financing Party shall have any obligation under this Lease prior to the time that such Financing Party acquires title to the leasehold estate by foreclosure, assignment in lieu of foreclosure or otherwise and has the possession or use thereof in accordance with Section 14(c) above. Moreover, any Financing Party or other party who acquires the leasehold estate pursuant to foreclosure or an assignment in lieu of foreclosure shall not be liable to perform any obligations hereunder pertaining to (i) the period prior to the time such Financing Party has possession and use of the leasehold estate, or (ii) the period after such Financing Party or other party no longer has possession and use of the leasehold estate and such possession and use has properly vested in another person or entity.

(f) **Survival.** The provisions of this Section 14 shall survive the expiration or earlier termination of this Lease.

15. **Assignment and Subletting.**

(a) Tenant shall not have the right to assign any of its rights, duties or obligations under this Lease without the prior consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed; provided, however, that Tenant may, without Landlord's consent however upon notice to Landlord, in its sole discretion assign any of its rights, duties, or obligations under this Lease and with respect to the Improvements (i) to any entity which controls, is controlled by or under common control with Tenant or its affiliates (the "Affiliate Parties"), (iii) to a Financing Party, or (iv) to any present or future purchaser of the power generated by the Solar Facilities.

(b) Tenant shall have the right to sublet all or portions of the Premises, provided that each such sublease shall be subject and subordinate to this Lease and to the rights of Landlord hereunder.

(c) Landlord may not assign, sublease, mortgage, pledge, or transfer its interest in the Premises or this Lease without the prior written consent of Tenant, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding anything to the contrary in the preceding sentence, no assignment of Landlord's interest in the Premises or the Lease shall relieve Landlord of any of its obligations under this Lease, nor may any such assignment be made unless fee title to the Property is simultaneously transferred to the permitted assignee hereunder and unless such permitted assignee has first assumed all of Landlord's obligations under this Lease in writing.

16. **Default Provisions.**

(a) **Default.** The following events shall be deemed to be events of default (each an "Event of Default," and collectively, the "Events of Default"):

(i) Failure to pay any payment required to be made hereunder as the same shall become due and payable, and such failure shall continue for twenty (20) business days after written notice of such failure has been received by the defaulting party.

(ii) Failure to comply in any material respect with any material term, provision or covenant of this Lease, other than payment of monetary sums, and if such failure continues for a period of sixty (60) days after written notice specifying such failure has been received by the defaulting party, or in the case of any such failure which cannot with due diligence and in good faith be cured within sixty (60) days, within such additional period as may be reasonably required to cure such failure with due diligence and in good faith.

(iii) Any act or omission of Landlord that in any way, directly or indirectly, impacts, affects or impairs Tenant's ability to operate and/or the operation of the Solar Facility.

(b) **Remedies.** Upon the occurrence of any Event of Default, subject to the rights of any Financing Party, the non-defaulting party may, at its option, and in addition to and cumulatively of any other rights it may have at law or in equity or under this Lease (i) cure the Event of Default on the defaulting party's behalf, in which event the defaulting party shall reimburse the non-defaulting party for all sums so expended; (ii) terminate this Lease by notice to the defaulting party and in conformity with the procedures required herein and by applicable law; or (iii) enforce, by all proper and legal suits and other means, its rights hereunder. In addition to any other remedies Tenant may have, Tenant shall be entitled to injunctive or other equitable relief as a remedy.

17. **Surrender of Possession.**

(a) **Ownership of Improvements.** Subject to the rights of all Financing Parties, on the expiration or earlier termination of this Lease, title to all Improvements located at the Premises shall continue to be the property of Tenant, its successors or assigns.

(b) **Surrender.** In accordance with the foregoing, Tenant shall, on or before the last day of the Term, or upon the earlier termination of this Lease, peaceably and quietly leave, surrender and yield up to Landlord the Premises, free of subtenancies.

(c) **Decommissioning and Removal.** Promptly after the expiration or earlier termination of the Term, Tenant shall commence to decommission, dismantle and remove the Solar Facility and all other property of Tenant located on the Premises, returning the Premises to its condition as of the Effective Date to the extent reasonably practical (reasonable wear and tear, casualty and condemnation excepted); provided, however, that Tenant shall not be required to decommission, dismantle or remove any underground Improvements or to significantly alter the grade of the Premises. Landlord hereby grants to Tenant and its successors and assigns a license to enter upon the Premises to perform the activities required to be performed by Tenant pursuant to this Section 17(c), which license shall be effective commencing upon the date of termination or expiration of the Term and shall continue for one hundred eighty (180) days thereafter.

(i) On or before the fifteenth (15<sup>th</sup>) year of this Lease, Tenant shall provide a decommissioning and removal bond in the amount sufficient to decommission and remove the Solar Facility and restore the Premises; provided, however, if the County of Genesee, State of New York or other governmental or quasi-governmental agency shall require a decommissioning bond in connection with this Solar Facility (a "Governmental Decommissioning Bond Obligation"), then satisfaction by Tenant of such Governmental Decommissioning Bond Obligation shall be deemed to satisfy Tenant's obligation to provide a decommissioning and removal bond hereunder and no additional bond shall be required hereunder.

#### 18. **Indemnification.**

(a) **Tenant.** Tenant shall indemnify, defend and hold harmless Landlord, its affiliates, officers, directors, partners, members, agents and employees and their successors and assigns (collectively, "Landlord Party") from and against any claim, loss, expense, including reasonable attorneys' fees, demand, lawsuit, or action for personal injury or property damage (collectively, "Losses"), to the extent resulting from (i) the negligent or willful misconduct of Tenant or any Tenant Party (defined below); and/or (ii) the material breach by Tenant of any obligation, representation or warranty arising under the Lease. Tenant shall not, however, be required to reimburse or indemnify Landlord or any Landlord Party for any Losses to the extent such Losses are due to the negligence or willful misconduct of Landlord or any Landlord Party.

(b) **Landlord.** Landlord shall indemnify, defend and hold harmless Tenant, its affiliates, officers, directors, partners, members, agents and employees and their successors and assigns (collectively, "Tenant Party") from and against any Losses, to the extent resulting from (i) the negligent or willful misconduct of Landlord or any Landlord Party; and/or (ii) the material breach by Landlord of any obligation, representation or warranty arising under the Lease. Landlord shall not, however, be required to reimburse or indemnify Tenant or any Tenant Party for any Losses to the extent such Losses are due to the negligence or willful misconduct of Tenant or any Tenant Party.

(c) **Consequential Damages.** Notwithstanding anything to the contrary herein, neither party shall be liable to the other for incidental, consequential, special, punitive or indirect damages, including but not limited to loss of use or loss of profit or revenue.

(d) **Survival.** The provisions of this Section 18 shall survive the expiration or earlier termination of this Lease.

19. **Quiet Enjoyment; Conveyance by Landlord.** As long as no Event of Default by Tenant has occurred or is continuing beyond any applicable cure period, Landlord covenants that Tenant shall and may peacefully and quietly have, hold, occupy and enjoy the Premises for the entire Term, without hindrance, ejection or molestation by Landlord or any party claiming under or through Landlord. In no event shall Landlord permit or suffer to exist any tax lien or other encumbrance on or against the Solar Facility, any Improvements or the Premises without Tenant's prior written consent, which may be withheld in Tenant's sole and absolute discretion. Landlord shall pay when due all of its obligations secured by a mortgage, deed of trust or other security. Upon either party's discovery of any such lien or failure to pay any secured obligations, such party shall (a) promptly give written notice thereof to the other party, and (b) Landlord shall cause the same to be discharged of record, paid or deliver to Tenant appropriate security for payment within thirty (30) days after Landlord receives notice of delinquency or filing of same, either by payment, deposit or bond. If Landlord fails to discharge any such lien or make any such payment, within such period, or to pay any Taxes or Assessments as required to be paid by Landlord under Section 9 above, then, in addition to any other rights or remedy hereunder, Tenant may, but shall not be obligated to, make the payment or procure the discharge of the same. Any amount so paid or discharged by Tenant, and all costs and other expenses related thereto, including reasonable attorneys' fees, in defending any such action or in procuring the discharge of such lien, together with interest thereon at 10% or the maximum permitted by law, shall be payable by Landlord to Tenant upon demand or may be deducted from the amounts owed to Landlord under this Lease.

20. **Requirements of Governmental Agencies.** Landlord shall assist and fully cooperate with Tenant, at no out-of-pocket expense to Landlord, in complying with or obtaining any land use permits and approvals, building permits, environmental impact reviews or any other approvals required for the financing, construction, installation, monitoring, replacement relocation, maintenance, operation or removal of the Solar Facility, including execution of applications for such approvals, and including participating in and supporting any appeals or regulatory proceedings respecting the Solar Facility. To the extent permitted by law, Landlord hereby waives enforcement of any applicable setback requirements respecting the Solar Facility to be placed on the Land.

21. **Landlord's Representations, Warranties and Covenants.** Landlord hereby represents, warrants and covenants to Tenant as of the Effective Date as follows:

(a) **Possession.** Landlord holds the entire fee simple interest in the Premises and will deliver possession of the Premises to Tenant free and clear of all tenants and occupants and Landlord's personal property and equipment.

(b) **Authority.** Landlord has the full legal right, power and authority, without the consent of any additional party or parties, to enter into this Lease and to perform, its obligations hereunder. The execution and delivery of this Lease and the consummation of all transactions and performance of all obligations contemplated hereby have been duly authorized and will not conflict with, or result in a breach of any of the terms or provisions of, or constitute a default under, any document or instrument to which Landlord is a party.

(c) **Binding on Landlord.** The person executing this Lease on behalf of Landlord has full power and authority to bind Landlord to the obligations set forth herein, and upon execution and delivery of the same, this Agreement will constitute a valid and binding instrument enforceable in accordance with its terms.

(d) **Claims or Actions.** There are no pending or threatened claims, actions or suits affecting the Premises.

(e) **No Violation of Laws.** To the best of Landlord's knowledge, the Premises is not in violation of any applicable federal, state, local or other laws, regulations or codes (the "Laws") and Landlord has not received notice pertaining to the violation of any Laws affecting the Premises or any portion thereof, and Landlord has no knowledge of any facts which might be a basis for any such notice

(f) **Authority.** The execution, delivery and performance by it under this Lease have been duly authorized by all necessary action by Landlord and do not violate any provision of any current law applicable to Landlord, the Property or any order, judgment or decree of any court or other agency presently binding on Landlord or conflict with or result in a breach of or constitute a default under any contractual obligation of Landlord.

(g) **Mortgages/Liens.** There are no pending mortgages or liens that affect the Premises that have not been subordinated to this Lease in a form reasonably acceptable to Tenant.

(h) **Bankruptcy.** Landlord has not (i) made a general assignment for the benefit of creditors; (ii) filed any voluntary petition in bankruptcy or suffered the filing of any voluntary petition by its creditors; (iii) suffered the appointment of a receiver to take possession of all or substantially all of its assets; or (iv) suffered the attachment or other judicial seizure of all or substantially all of its assets.

(i) **Hazardous Substances; Environmental Laws.** The Premises are free of any Hazardous Substances (as defined below) in a condition which violates any Environmental Laws (as defined below) and there are no outstanding claims and Landlord has not received any notice of any violations by any governmental authorities with respect to the Premises alleging a violation of applicable legal requirements and the Premises is in compliance with all legal requirements and Environmental Laws. Landlord shall indemnify, defend and hold harmless Tenant, and Tenant Party from and against any and all claims, actions, causes of action, suits, proceedings, costs, expenses (including attorney's fees), liabilities, damages, penalties, fines, losses and liens of any type resulting from (i) the presence of any Hazardous Substances in, on or under the Premises as of the Effective Date, (ii) any release of Hazardous Substances caused or permitted by Landlord or any Landlord Party, or (iii) any violation or alleged violation of any Environmental Laws by Landlord or any Landlord Party.

The term "**Hazardous Substance**" as used in this Lease shall mean any hazardous or toxic material, substance or waste, pollutant or contaminant or infectious or radioactive material, which is regulated now or in the future under any statute, law, ordinance, rule or regulation of any local, state, regional or federal authority having jurisdiction over the Property, or its use, including, but not limited to any material, substance or waste, which is: (A) defined as a solid waste, hazardous substance, toxic substance or hazardous waste under any Environmental Laws; (B) a petroleum hydrocarbon, including crude oil or any fraction thereof and all petroleum products, and wastes; (C) polychlorinated biphenyls; (D) trichloroethylene, tetrachloroethylene, perchloroethylene and other chlorinated solvents; (E) lead; (F) explosives; (G) infectious materials; (H) radioactive materials; or (I) defined or regulated as a hazardous substance or hazardous waste under any rules or regulations promulgated under any Environmental Law.

The term "**Environmental Laws**" means any federal, state or local laws, ordinances, statutes, codes, rules, regulations, orders or decrees now or hereinafter in effect relating to (A) pollution, (B) the protection or regulation of human health, natural resources or the environment, (C) the treatment, storage or disposal of Hazardous Substances, or (D) the emission, discharge, release or threatened release of Hazardous Substances into the environment, including (1) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("**CERCLA**") (41 U.S.C. § 9601 et seq.), the Resource Conservation and Recovery Act, as amended ("**RCRA**") (42 U.S.C. § 6901 et seq.), and the Toxic Substances Control Act, as amended ("**TSCA**") (15 U.S.C. § 2601 et seq.); and (2) Article 27 of the New York State Environmental Conservation Law.

(j) **Survival.** The provisions of this Section 21 shall survive the expiration or earlier termination of this Lease.

22. **Estoppel Certificates.** Either party agrees, at any time and from time to time upon not less than ten (10) business days' prior notice by the other party or from a Financing Party, to execute, acknowledge and deliver to the other party, or to any person designated by the other party, a written estoppel certificate certifying that this Lease is unmodified and in full force and effect (or, if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), and the dates to which the Basic Rent has been paid, and stating whether or not the other party is in default in keeping, observing or performing any term, covenant or condition contained in this Lease on the other party's part to be kept, observed or performed and, if in default, specifying each such default, and any other factual matters pertaining to this Lease reasonably requested by the other party or a Financing Party, it being intended that any such statement delivered pursuant to this Section 22 may be relied upon by the other party, or any prospective purchaser or encumbrancer of a party's interest in the Lease or any part thereof (including any Financing Party). Any party's failure to execute, acknowledge, and deliver, on request, such an estoppel within the specified time shall constitute acknowledgment by such party to all persons entitled to rely on the estoppel certificate that the information contained in the form of estoppel certificate provided with the request is true and accurate in all respects and shall constitute a waiver, with respect to all persons entitled to rely on the estoppel certificate, of any defaults that may exist as of the outside date for return of the requested estoppel certificate; provided that said acknowledgment and waiver shall not apply to the extent such acknowledgment or waiver is inconsistent with any statement or information set out in a written notice provided by such party to the requesting party within the specified time.

23. **Arbitration.** The parties agree that any dispute, controversy, claim or disagreement between or among them arising out of, concerning or relating to this Agreement will be settled by arbitration administered by the American Arbitration Association. The arbitrator will be, to the fullest extent available, either a retired judge or selected from a panel of persons trained and expert in the subject area of the asserted claims. All claims will be decided by one arbitrator, to be selected in accordance with the rules of the American Arbitration Association. An award may be entered against a party who fails to appear at a duly noticed hearing. The decision of the arbitrator may be entered and enforced as a final judgment in any court of competent jurisdiction.

(a) **Place of Arbitration.** The place of arbitration will be the city of New York, New York, unless the American Arbitration Association has no offices in that location, in such case the place of arbitration shall be the closest American Arbitration Association office.

(b) **No Consolidation.** It is the intent of both parties that they will only apply for dispute resolution under this Section 12 in an individual capacity and not as a plaintiff or class member in any purported class or representative proceeding, or in a private attorney general capacity. Accordingly, the arbitrator is not empowered to consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.

(c) **Findings and Reasons Required.** The arbitrator will prepare in writing and provide to the parties, an award including factual findings and the reasons on which their decision is based.

(d) **No Power to Commit Errors.** The arbitrator will not have the power to commit errors of law or legal reasoning, and the award is subject to review for legal error, confirmation, correction, or vacatur in a state court of competent jurisdiction.

(e) **Provisional Remedies.** This Section 12 will not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

(f) **Confidentiality**. The parties will maintain the confidential nature of the arbitration proceeding and the arbitration award, including the hearing, except as may be necessary to prepare for or conduct the arbitration hearing on the merits, or except as may be necessary in connection with a court application for a preliminary remedy, a judicial challenge to an award or its enforcement, or unless otherwise required by law or judicial decision.

(g) **Punitive or Exemplary Damages**. In any arbitration arising out of or related to this Agreement, the arbitrator is not empowered to award punitive or exemplary damages, except where mandated by statute, and the parties waive any right to recover any such damages. This **Section 12** will survive the termination or expiration of this Agreement.

(h) **Fees**. The parties will share equally the arbitrator's fees and other costs of the arbitration, and costs of appeal. If any party fails or refused to pay its share of the cost of arbitration, the other party may, at its option, (i) elect to pay the entire cost of the arbitration, in which case the obligation of the nonpaying party to otherwise participate in the arbitration is not excused; or (ii) immediately proceed to litigation. Regardless of which party ultimately prevails, the court, if litigation is elected, or the arbitrator, if arbitration is elected, will award costs and expenses incurred as a result of such failure or refusal to the party who paid the costs of arbitration.

(i) **Federal Arbitration Act**. The foregoing arbitration provisions will be construed and enforced in accordance with the Federal Arbitration Act, notwithstanding the provisions of this Agreement specifying any particular state or national law as the governing law.

#### 24. **Miscellaneous Provisions**.

(a) **Attorneys' Fees**. In the event of any action between the parties hereto for enforcement or interpretation of any of the terms or conditions of this Lease, the prevailing party in such action shall be entitled to recover its reasonable attorneys' fees actually incurred, together with its other reasonable out-of-pocket costs and expenses, including expert witness fees, accounting and other professional fees.

(b) **Waiver of Jury Trial**. EACH PARTY HERETO WAIVES, TO THE FULL EXTENT PERMITTED BY LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS LEASE OR ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE.

(c) **Confidentiality**. Landlord will maintain in strict confidence, for the sole benefit of Tenant, the existence and the terms of this Lease and the transactions contemplated herein; provided, however, Landlord may disclose this Lease and the transactions contemplated herein to Landlord's affiliates, subsidiaries, attorneys, consultants or other agents or professional advisors, or as required by law.

(d) **Counterparts**. This Lease may be executed in counterparts. All executed counterparts shall constitute one agreement, and each counterpart shall be deemed an original. The parties hereby agree signatures transmitted by facsimile or email shall be legal and binding and shall have the same full force and effect as if an original of this Lease had been delivered and hereby waive any defenses to the enforcement of the terms of this Lease based on the foregoing forms of signature.

(e) **Time Periods**. If any date for exercise of any right, giving of any notice, or performance of any provision of this Lease falls on a Saturday, Sunday or holiday, the time for performance will be extended to the next business day.

(f) **No Waiver.** The failure of either party to require strict performance by the other party of any provision of this Lease will not be considered a waiver of any other provision, nor prevent any party from enforcing that or any other performance at any time thereafter.

(g) **Further Assurances.** The parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to carry out the intent and purposes of this Lease. Landlord agrees that whenever it is provided in this Lease that the prior consent or approval of Landlord is required, Landlord will not unreasonably withhold, condition or delay the giving of such consent or approval

(h) **Governing Law.** This Lease is made pursuant to, and shall be construed and enforced in accordance with, the laws of the state of New York.

(i) **Amendments; Entire Agreement.** This Lease contains the entire agreement between the parties and is intended by the parties to set forth their entire agreement with respect to the subject matter hereof, and any agreement hereafter made shall be ineffective to change, modify or discharge this Lease, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change, modification or discharge is sought. Landlord and Tenant agree that all prior or contemporaneous oral or written agreements between or amongst themselves or their agents are merged in or revoked by this Lease.

(j) **Partial Invalidity.** If any term or provision of this Lease is, to any extent, determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Lease shall not be affected thereby, and each remaining term and provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

(k) **Successors and Assigns.** This Lease, and the rights and obligations of the parties hereto, shall be binding upon and inure to the benefit of the parties and their respective successors, heirs, executors, administrators and permitted assigns.

(l) **Interpretation.** Each party acknowledges that it has been represented by or had the opportunity to be represented by legal counsel in its review of this Lease and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any amendments or exhibits hereto.

(m) **Survival of Terms.** Those provisions in this Lease which by their terms are intended to be or must be performed in whole or in part after the expiration or earlier termination of this Lease shall survive such expiration or termination of this Lease.

(n) **Headings.** The headings herein are inserted only for convenience and shall have no effect in interpreting the meaning of any provision.

(o) **Time is of the Essence.** Time is of the essence of this Lease and each and every provision of this Lease.

(p) **Memorandum of Lease.** Concurrently with the execution of this Lease, Landlord and Tenant shall execute and acknowledge before a notary public, in recordable form, and deliver a short form memorandum of lease in the form of **Exhibit E** attached hereto and incorporated herein, which shall be recorded by Tenant in the official records of the county where the Premises is located.

(q) **Notices.** All notices, approvals, disapprovals or elections required or permitted to be given under this Lease shall be in writing and shall be (i) delivered personally; (ii) mailed by certified or registered mail, return receipt requested; (iii) sent by email transmission; (iv) sent by facsimile transmission; or (v) sent by Federal Express or other professional carrier, to the parties at the addresses listed below or at such other addresses as shall be designated by Tenant or Landlord in writing. Except as expressly set forth in this Lease, notices shall be deemed given upon delivery or tender of delivery to the intended recipient; provided, however, that (x) notice sent by email or facsimile shall only be deemed received when both



(A) the sender has electronic confirmation that it was sent to all parties (and has retained a confirmation of the delivery) and (B) at least one addressee entitled to notice for the applicable party has acknowledged receipt of the transmission; and (y) if a post office box is provided as the notice address, notice shall be deemed to have been given or made five (5) days after being deposited in the United States mail with appropriate postage prepaid. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice.

**Landlord Address**

Thomas D. Englerth  
6740 Main Rd.  
Stafford, NY 14143

Phone: (585) 746-2525  
E-mail: N/A

**Tenant Address**

c/o Forefront Power, LLC  
Attn: Legal  
100 Montgomery Street, Suite 725  
San Francisco, CA 94104  
Phone: (855) 204-5083

[Signature Page to Follow]

IN WITNESS WHEREOF, Landlord and Tenant have executed this Lease on the date first above written.

**LANDLORD:**

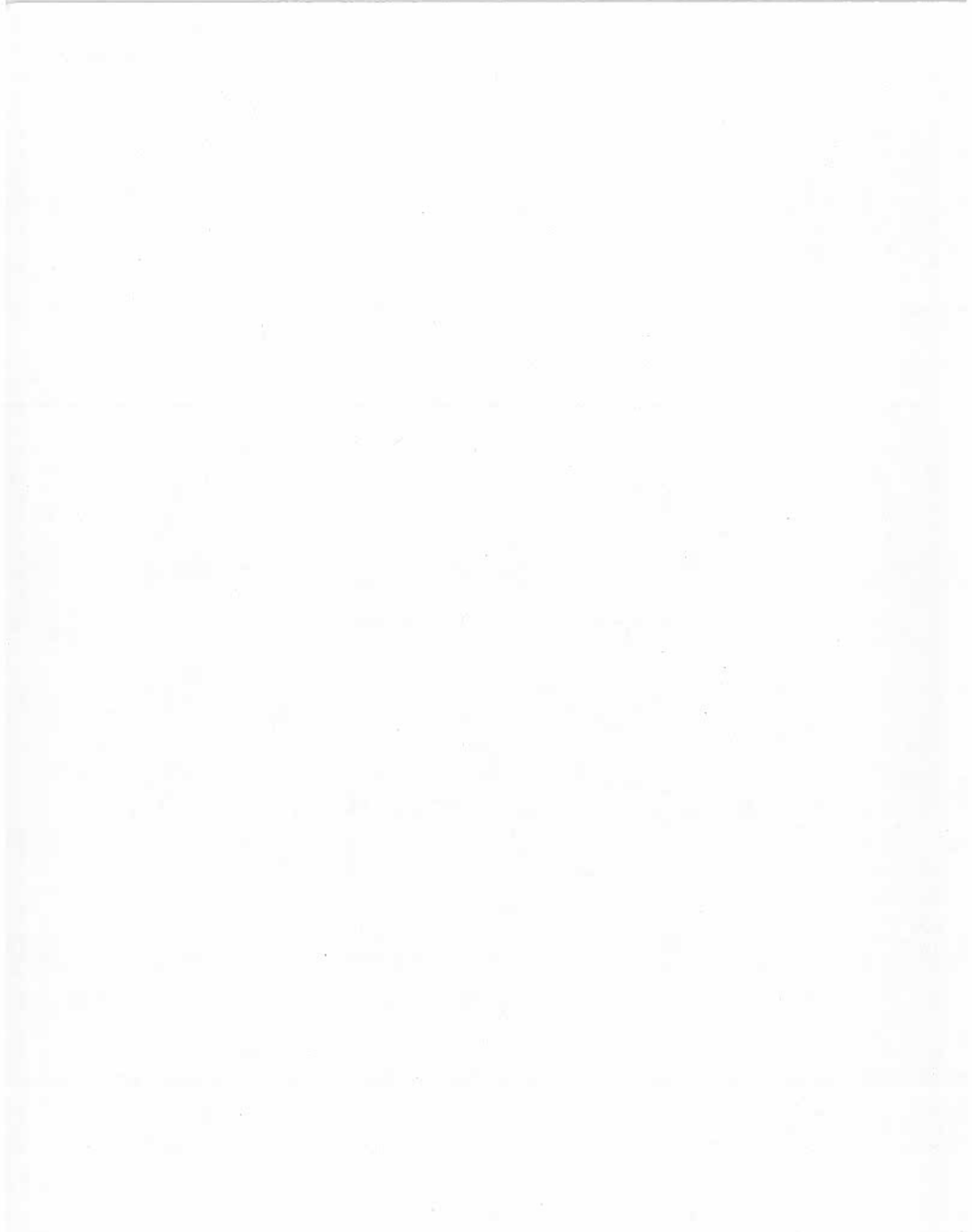
\_\_\_\_\_  
Thomas S. Englerth, an individual

\_\_\_\_\_  
Todd M. Englerth, an individual

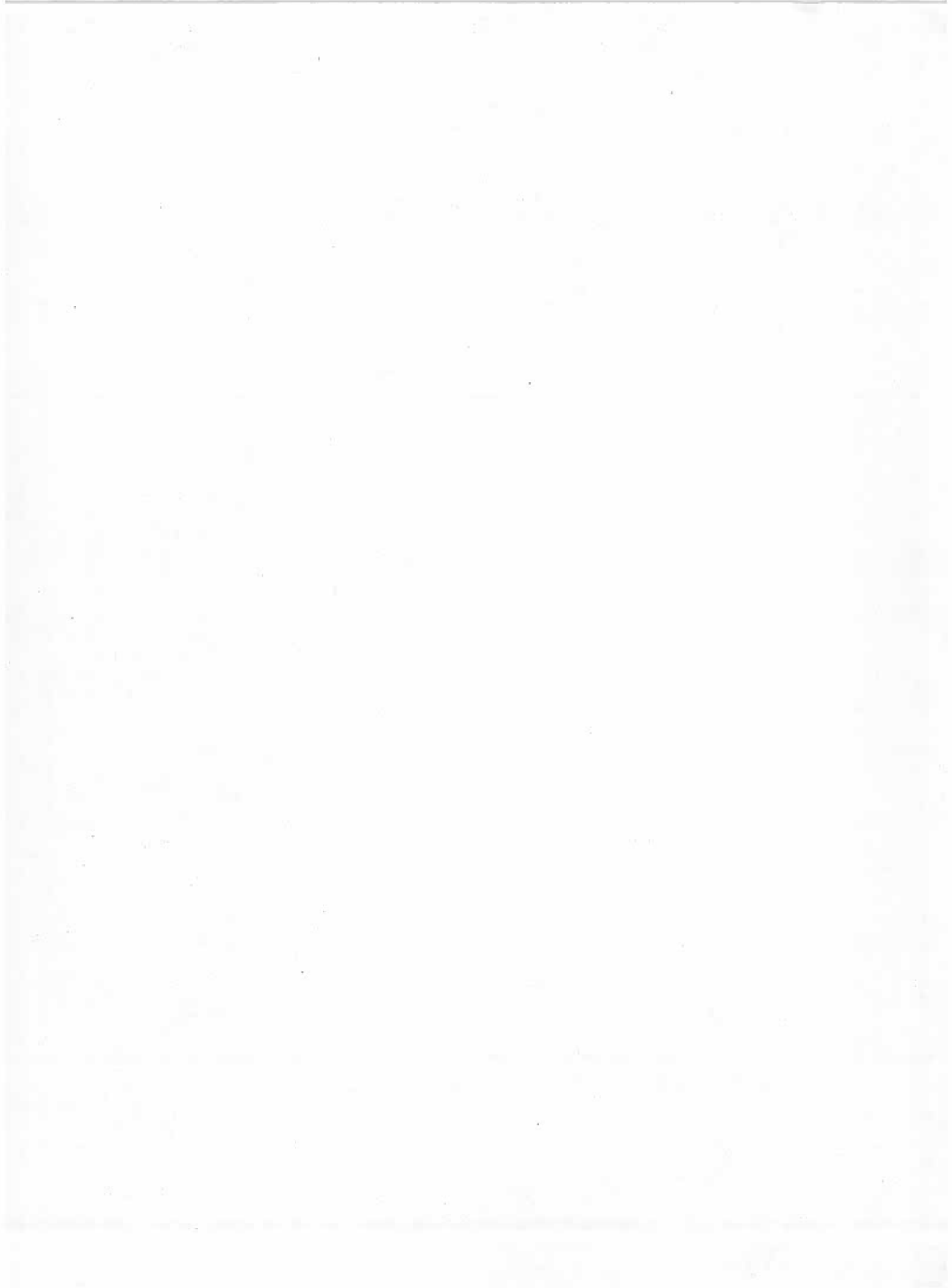
**TENANT:**

FFP Origination, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**EXHIBIT A**  
**THE PROPERTY**  
**[TO BE ATTACHED]**



**EXHIBIT B**

**THE LAND**

**[TO BE ATTACHED]**



**EXHIBIT C**

**ACCESS EASEMENT AREA**

***[NOTE: IF NONE STATE "INTENTIONALLY OMITTED"  
AND DELETE "ACCESS EASEMENT AREA" ABOVE]***





**EXHIBIT D**

**TRANSMISSION EASEMENT AREA**

***[NOTE: IF NONE STATE "INTENTIONALLY OMITTED"  
AND DELETE "TRANSMISSION EASEMENT AREA" ABOVE]***



**EXHIBIT E**

**FORM OF MEMORANDUM OF LEASE**

DOCUMENT PREPARED BY AND  
AFTER RECORDING, PLEASE RETURN TO:

*Forefront Power, LLC  
Attn: Legal  
100 Montgomery Street, Suite 725  
San Francisco, CA 94104*

---

**MEMORANDUM OF LEASE [AND EASEMENT]**

This MEMORANDUM OF LEASE (the "Memorandum") is made and entered into as of \_\_\_\_\_, 201\_, by and between \_\_\_\_\_, a \_\_\_\_\_ ("Landlord"), and \_\_\_\_\_, a \_\_\_\_\_ limited liability company ("Tenant").

**PRELIMINARY STATEMENT**

WHEREAS, Landlord is the owner of the real property located in the City/Town of \_\_\_\_\_, County of \_\_\_\_\_, State of New York, more particularly described in Exhibit A attached hereto and made a part hereof (the "Property").

WHEREAS, pursuant to that certain Ground Lease (the "Lease") dated as of \_\_\_\_\_, 201\_ by and between Landlord and Tenant, Tenant leases from Landlord the land more particularly described in Exhibit B attached hereto and made a part hereof, together with all easements and similar appurtenances thereto (collectively, the "Land").

WHEREAS, the parties hereto desire to enter into this Memorandum so that third parties shall have notice of the existence of the Lease and of the rights and obligations of Landlord and Tenant under the Lease.

**AGREEMENT**

NOW, THEREFORE, the parties hereto do hereby certify and agree as follows:

1. Lease. As set forth more fully in the Lease, Landlord leases to Tenant, and Tenant leases from Landlord, for the Term (as defined below), the Land in accordance with the terms and provisions of the Lease. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Lease.

2. [NOTE: IF EASEMENTS WILL BE GRANTED BY THE LANDLORD, INCLUDE THIS PARAGRAPH. IF EASEMENTS WILL NOT BE GRANTED DELETE THIS PARAGRAPH]Easements. As set forth more fully in the Lease, Landlord grants to Tenant a non-exclusive

easement on, over, under, across and through that portion of the Property described in Exhibit C attached hereto and made a part hereof, for access and/or electrical transmission upon the terms and subject to the terms and conditions set forth in the Lease (the “**Easements**”).

3. Solar Energy Insolation. As set forth more fully in the Lease, Landlord grants to Tenant the right and privilege to the free and unobstructed insolation of solar energy over and to the Land. Landlord’s activities and any grant of rights Landlord makes to any person or entity, whether located on the Premises or elsewhere, shall not, currently or prospectively, interfere with: the construction, installation, maintenance, or operation of the Solar Facility and/or access over the Premises to such Solar Facility and/or Tenant’s rights to use the Premises as permitted pursuant to the Lease. Without limiting the generality of the foregoing, Landlord shall not (and shall not allow any other party to) disturb or interfere with the unobstructed flow of Solar Energy upon, over and across the Land, whether by placing towers or antennas of any type, planting trees or constructing buildings or other structures or facilities, or by engaging in any other activity on the Land or elsewhere that might delay the installation of, disrupt, or otherwise cause a decrease in the output or efficiency of the Solar Facility.

4. Personal Property. The parties agree that the Improvements are severed by agreement and intention of the parties and shall remain severed from the Premises, and, even though attached or affixed to or installed upon the Premises, shall not be considered to be fixtures or a part of the Premises and shall not be or become subject to the lien of any mortgage or deed of trust placed on the Premises by Landlord.

5. Term. The term of the Lease (the “**Term**”) commenced on the Effective Date and shall terminate on the date that is twenty (20) years after the Commercial Operation Date. Tenant has two (2) options to extend the Term for five (5) years each.

6. Successors and Assigns. The Lease provides that the provisions of the Lease are binding upon and inure to the benefit of Landlord and Tenant and each of their respective representatives, successors and assigns, subject to the terms and provisions thereof.

7. Incorporation/Conflicts. All of the terms, conditions and agreements contained within the Lease are fully incorporated herein by reference as if fully set forth herein. This Memorandum is not intended to change the terms of the Lease and, in the event of a conflict between the terms and conditions of this Memorandum and the Lease, the terms and conditions of the Lease shall control.

8. Governing Law. This Memorandum shall be governed by the laws of the state of New York.

9. Counterparts. The parties agree that this Memorandum may be executed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the parties have caused this Memorandum to be duly executed under seal and delivered as of the date first written above.

**LANDLORD**

\_\_\_\_\_,  
a \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TENANT**

\_\_\_\_\_,  
a \_\_\_\_\_ limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



STATE OF NEW YORK

)

) SS:

COUNTY OF

)

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 20\_\_, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

---

Notary Public



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of \_\_\_\_\_

County of \_\_\_\_\_

On \_\_\_\_\_, \_\_\_\_\_ before me \_\_\_\_\_, Notary Public personally appeared \_\_\_\_\_

\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s), whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

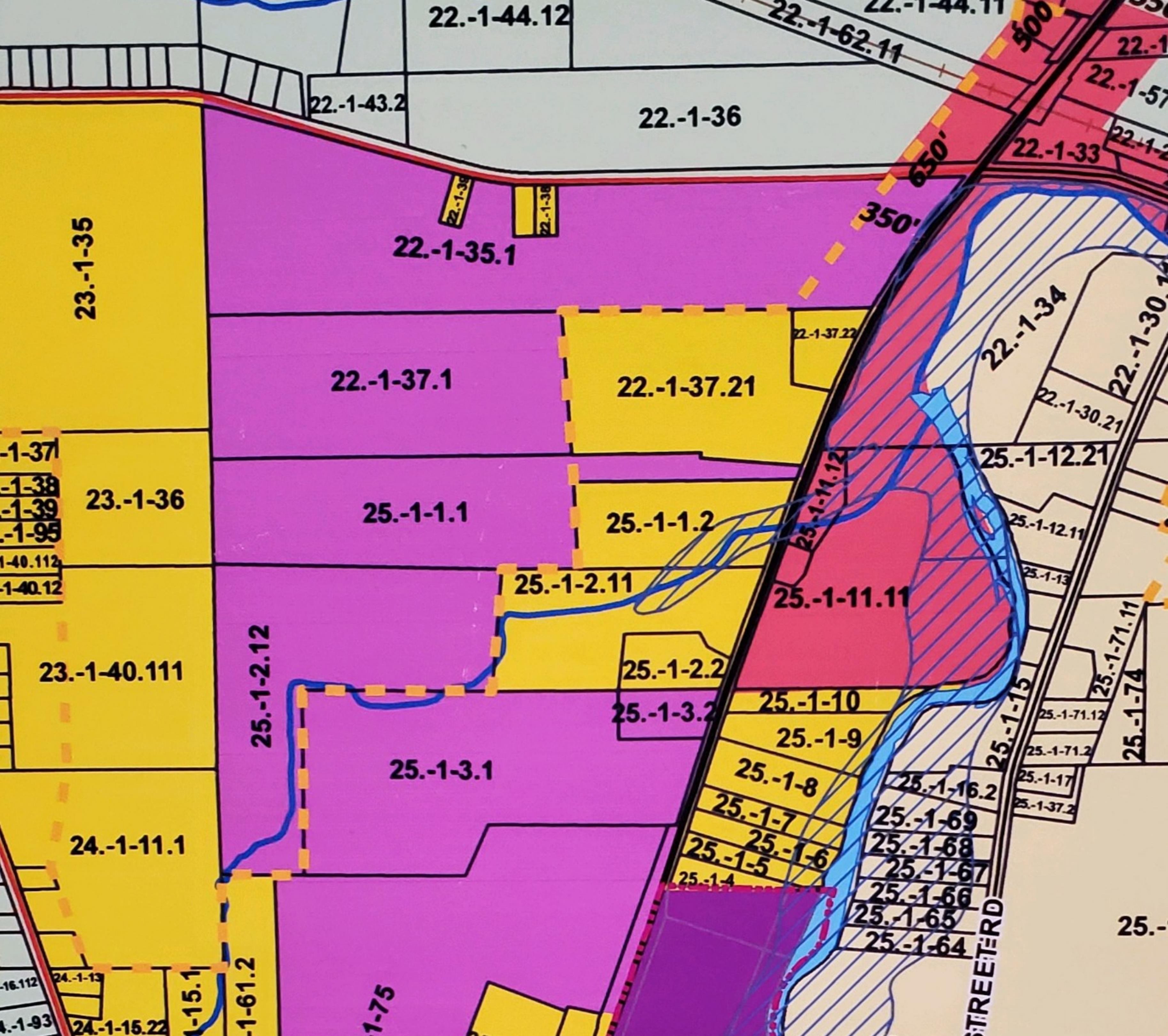
(seal)

**EXHIBIT A to EXHIBIT E**  
**LEGAL DESCRIPTION OF THE PROPERTY**  
**[TO BE ATTACHED]**

**EXHIBIT B to EXHIBIT E**  
**LEGAL DESCRIPTION OF THE LAND**  
**[TO BE ATTACHED]**

**EXHIBIT C to EXHIBIT E**  
**LEGAL DESCRIPTION OF THE EASEMENTS**

***[NOTE: IF NONE DELETE EXHIBIT]***



# T-07-LEROY-11-22

