

STATE OF SOUTH CAROLINA)
)
COUNTY OF DARLINGTON)

ORDINANCE NO. 23-01

AN ORDINANCE AUTHORIZING PURSUANT TO CHAPTER 44 OF TITLE 12, SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED, THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BETWEEN DARLINGTON COUNTY, SOUTH CAROLINA AND HAWFINCH SOLAR, LLC AND CERTAIN AFFILIATES; AND AUTHORIZING OTHER RELATED MATTERS.

WHEREAS, Darlington County, South Carolina, a political subdivision of the State of South Carolina (the “*County*”), acting by and through its County Council (the “*Council*”), is authorized and empowered (i) under Title 12, Chapter 44 of the Code of Laws of South Carolina, 1976, as amended (the “*FILOT Act*”) to enter into agreements with qualifying companies to encourage investment in projects constituting economic development property through which the economic development of the State of South Carolina (the “*State*”) will be promoted by inducing new and existing manufacturing and commercial enterprises to locate and remain in the State and to covenant with such industry to accept certain payments of fees in lieu of ad valorem taxes (“*FILOT*”) with respect to such investment (“*FILOT Payments*”); (ii) under Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended and Article VIII, Section 13 of the South Carolina Constitution to create multi-county industrial parks with one or more contiguous counties and include certain properties therein, and, in its discretion, include within the boundaries of these parks the property of qualifying industries, and under the authority provided in the MCIP Act and S.C. Const. art. VIII, §13, the County has created a multi-county park with Florence County, South Carolina; (iii) under Sections 4-1-175, 4-29-68 and 12-44-70 of the Code of Laws of South Carolina, 1976, as amended (collectively, “*Infrastructure Credit Act*”) to grant credits against FILOT Payments to qualifying companies to offset qualifying infrastructure related expenditures (“*Special Source Revenue Credits*”); and (iv) to make and execute contracts of the type hereinafter described pursuant to Section 4-9-30 of the Code of Laws of South Carolina, 1976, as amended;

WHEREAS, Hawfinch Solar, LLC, a limited liability company duly organized and existing under the laws of the State of South Carolina, as Sponsor, along with any existing, or to-be-formed or acquired subsidiaries, or affiliated or related entities and any Sponsor Affiliates that the Sponsor may designate and have the County approve by subsequent resolution (collectively, “*Company*”), contingent upon satisfaction of certain commitments made by and on behalf of the County as set forth herein and to be further set forth in future agreements, and, to the extent allowed by law, proposes to develop, install or operate, as applicable solar power generating facilities located at leased sites situated at Tax Map Parcel Numbers: 015-00-01-001, 015-00-01-002, 014-00-02-011, and 015-00-01-005 in Darlington County, South Carolina (“*Project*”), which will result in new investment in personal property estimated to be no less than \$29,000,000.00 (“*Investment*”) in the County;

WHEREAS, by its Resolution No. 752 adopted on January 3, 2023 (“*Resolution*”), the County identified the Project, as required by the FILOT Act; and

WHEREAS, in connection with the Project, the Company has requested the County to enter into incentive agreements, to the extent and subject to the conditions provided in those agreements, to establish the intention of the Company to make the Investment and the commitment of the County to provide certain incentives in connection with the Company's Project in the County; and

WHEREAS, the County has determined to provide: (i) a FILOT arrangement and, correspondingly, enter into a fee-in-lieu of ad valorem taxes agreement with the Company, the form of which is attached as **Exhibit A ("Fee Agreement")**, whereby the Company will make FILOT Payments to the County for Economic Development Property (as defined in the FILOT Act and the Fee Agreement), with the principal terms as follows: a 30-year term, with a Company option for a 10-year extension thereto as authorized by Section 12-44-30(21) of the FILOT Act for a total 40-year term; a 6.0% assessment ratio; a fixed millage rate equal to that millage rate in effect at the Project, for all taxing entities, on June 30, 2022, which the parties hereto believe to be a millage rate of 323.6 mils for the entire term of the FILOT arrangement; and an Investment Period beginning on the date property is placed in service under the Fee Agreement and ending five years thereafter (as such terms are defined in the FILOT Act), and (ii) Special Source Revenue Credits against FILOT Payments made pursuant to the Fee Agreement, as further set forth in the Fee Agreement; and

WHEREAS, the parties recognize and acknowledge that the offer of the Fee Agreement and accompanying Special Source Revenue Credits are a strong inducement for the Company to locate the Project and make the Investment in the County.

NOW, THEREFORE, BE IT ORDAINED, by the Council as follows:

Section 1. Project Finding. The County Council hereby finds and affirms, based on information provided by the Company: (i) the Project will benefit the general public welfare of the County by providing services, employment, recreation or other public benefits not otherwise provided locally; (ii) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its general credit or taxing power; (iii) the purposes to be accomplished by the Project are proper governmental and public purposes; and (iv) the benefits of the Project to the public are greater than the costs to the public; and (v) the Project will provide a substantial public benefit to the County to qualify for the Fee term extension set forth in Section 12-44-30 of the FILOT Act.

Section 2. Authorization to Execute and Deliver Fee Agreement. The Chair of County Council is authorized and directed to execute the Fee Agreement with any minor modifications and revisions as may be approved by the Chair of County Council, the County Administrator, and the County Attorney, in the name of and on behalf of the County, and the Clerk to County Council is authorized and directed to attest the same; and the Chair of County Council, the County Administrator, and the County Attorney are further authorized and directed to deliver the executed Fee Agreement to the Company.

Section 3. No Recapitulation Required. Pursuant to Section 12-44-55(B) of the FILOT Act, the County hereby agrees that no recapitulation information, as set forth in Section 12-44-55(A) of the FILOT Act is required to be provided by the Company in the Fee Agreement, or in any other documents or agreements in connection with the fee-in-lieu of tax arrangement between the

Company and the County, so long as the Company shall file a copy of the South Carolina Department of Revenue form PT-443, and any subsequent amendments thereto, and all filings required by the FILOT Act with the County after the execution of the Fee Agreement by the County and the Company.

Section 4. Further Acts. The County Council authorizes the County Administrator, other County staff, and the County Attorney, along with any designees and agents who any of these officials deems necessary and proper, in the name of and on behalf of the County (each an "Authorized Individual"), to take whatever further actions, and enter into whatever further agreements, as any Authorized Individual deems to be reasonably necessary and prudent to effect the intent of this Ordinance and induce the Company to locate the Project in the County.

Section 5. General Repealer and Replacement. All ordinances, resolutions, and their parts in conflict with this Ordinance are, to the extent of that conflict repealed. The 2018 Fee Agreement between the parties is repealed and hereby replaced with this Agreement.

Section 6. Severability. Should any part, provision, or term of this Ordinance be deemed unconstitutional or otherwise unenforceable by any court of competent jurisdiction, such finding or determination shall not affect the rest and remainder of the Ordinance or any part, provision or term thereof, all of which is hereby deemed separable.

This Ordinance takes effect and is in full force only after the County Council has approved this Ordinance following three readings and a public hearing.

Done in meeting duly assembled this 6th day of March, 2023.

[End of Ordinance]

DARLINGTON COUNTY, SOUTH CAROLINA

By: Bobby Hudson

Bobby Hudson, Chairman
Darlington County Council

(SEAL)

ATTEST:

J. Janet Bishop
J. Janet Bishop, Clerk to Council
Darlington County Council

First Reading: January 3, 2023

Second Reading: February 6, 2023

Public Hearing: February 6, 2023

Third Reading: March 6, 2023

FEE-IN-LIEU OF *AD VALOREM* TAXES AGREEMENT

BETWEEN

HAWFINCH SOLAR, LLC, AS SPONSOR

AND

DARLINGTON COUNTY, SOUTH CAROLINA

DATED AS OF March 6, 2023

PREPARED BY:

**MCGUIREWOODS LLP
800 E. CANAL STREET
RICHMOND, VA 23219
(804) 775-1921**

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FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT

THIS FEE-IN-LIEU OF AD VALOREM TAXES AGREEMENT (this "*Fee Agreement*") is made and entered into as of [03/14], 2023, by and between Darlington County, South Carolina (the "*County*"), a body politic and corporate and a political subdivision of the State of South Carolina (the "*State*"), acting by and through the Darlington County Council (the "*County Council*") as the governing body of the County, and Hawfinch Solar, LLC (the "*Sponsor*"), a limited liability company duly organized and existing under the laws of the State of South Carolina, previously identified as Project Swan - Darlington.

WITNESSETH:

WHEREAS, the County is authorized and empowered under and pursuant to the provisions of Title 12, Chapter 44 (the "*Act*") of the Code of Laws of South Carolina 1976, as amended (the "*Code*") and Title 4, Chapter of the Code (the "*Multi-County Park Act*"): (i) to enter into agreements with certain entities meeting the requirements of the Act to construct, operate, maintain, and improve certain industrial and commercial properties through which the economic development of the State of South Carolina will be promoted and trade developed by inducing corporate headquarters, manufacturing and commercial enterprises to locate and remain in the State of South Carolina and thus utilize and employ the manpower, agricultural products, and natural resources of the State; (ii) to covenant with such investors to accept certain payments in lieu of ad valorem taxes with respect to the project; and (iii) to maintain, create or expand, in conjunction with one or more other counties, a multi-county industrial park in order to afford certain enhanced income tax credits to such investors;

WHEREAS, the Sponsor proposes to develop, install or operate, as applicable a solar power generating facilities located at a leased site situated at or near 2800 Woodduck Rd, Hartsville, SC 29550, with Tax Map Numbers 015-00-01-001, 015-00-01-002, 014-00-02-011, and 015-00-01-005 (the "*Land*") in Darlington County, South Carolina (the "*Project*");

WHEREAS, the Project will involve an investment which, but for this Fee Agreement, would have a value for ad valorem taxation purposes, of not less than \$29,000,000 within the Investment Period ("*Project Commitment*"), meeting the minimum investment requirement under the Act;

WHEREAS, the Project is expected to have a capacity of twenty-four megawatts of alternating current power ("*MWac*");

WHEREAS, pursuant to the Act, the County has determined that (a) the Project (as defined herein) is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefit not otherwise adequately provided locally; (b) the Project gives rise to no pecuniary liability of the County or incorporated municipality and to no charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project to the public are greater than the costs to the public;

WHEREAS, the County Council adopted an Inducement Resolution (Darlington County Resolution No.752) on January 3, 2023, (the "*Resolution*"), wherein the County Council, as an inducement to the Sponsor to develop the Project, committed the County to enter into, and authorized the County Administrator, County Attorney and the Executive Director of the Darlington County Economic Development Partnership to negotiate with the Sponsor the terms of, this Fee Agreement;

WHEREAS, the County Council adopted an ordinance on March 6, 2023, (the "*Fee Ordinance*"),

as an inducement to the Sponsor to develop the Project and at the Sponsor's request, the County Council authorized the County to enter into this Fee Agreement as a fee-in-lieu of ad valorem tax agreement with the Sponsor which identifies the property comprising the Project as Economic Development Property under the Act subject to the terms and conditions hereof;

WHEREAS, the Project constitutes Economic Development Property within the meaning of the Act; and

WHEREAS, for the purposes set forth above, the County has determined that it is in the best interests of the County to enter into this Fee Agreement with the Sponsor subject to the terms and conditions herein set forth,

NOW, THEREFORE, AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows, with the understanding that no obligation of the County described herein shall create a pecuniary liability or charge upon its general credit or taxing powers, but shall be payable solely out of the sources of payment described herein and shall not under any circumstances be deemed to constitute a general obligation to the County:

ARTICLE I PROJECT OVERVIEW

Section 1.1. *Agreement to Waive Requirement of Recapitulation.* Pursuant to Section 12-44-55(B) of the Act, the County and the Sponsor agree to waive the requirement of including in this Fee Agreement the recapitulation information as set forth in Section 12-44-55(A) of the Act. If the Sponsor should be required to retroactively comply with the recapitulation requirements of Section 12-44-55 of the Act, then the County agrees, to the extent permitted by law, to waive all penalties of the County for the Sponsor's noncompliance that are within the County's control.

Section 1.2. *Rules of Construction; Defined Terms.* In addition to the words and terms elsewhere defined in this Fee Agreement, the terms defined in this Article shall have the meaning herein specified, unless the context clearly requires otherwise. The definition of any document shall include any amendments to that document unless the context clearly indicates otherwise.

"Act" shall mean Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, and all future acts supplemental thereto or amendatory thereof.

"Administrative Expenses" shall mean the reasonable and necessary expenses, including attorneys' fees, incurred by the County with respect to the Project and this Fee Agreement.

"Affiliate" shall mean any Person directly or indirectly controlling, controlled by, or under common control with such other Person. For purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person, whether through the ownership of voting securities, by contract, or otherwise.

"Agreement" shall mean this Fee-in-Lieu of Tax Agreement by and among the County and the Company, as originally executed and from time to time supplemented or amended as permitted herein, and dated as of March 6, 2023.

"Authorized Sponsor Representative" shall mean any person designated from time to time to act

on behalf on the Sponsor as evidenced by a written certificate or certificates furnished to the County containing the specimen signature of each such person, signed on behalf of the Sponsor by its Manager, its President, one of its vice presidents, its general counsel, its secretary or any assistant secretary. Such certificates may designate an alternate or alternates and may designate different Authorized Sponsor Representatives to act for the Sponsor with respect to different sections of this Fee Agreement.

"Chairman" shall mean the Chairman of the County Council of Darlington County, South Carolina.

"Closing" or "Closing Date" shall mean the date of the execution and delivery hereof.

"Code" shall mean the South Carolina Code of Laws, 1976, as amended.

"Co-Investor" shall mean the Company, any other Sponsor or Sponsor Affiliate within the meaning of Sections 12-44-30(19) and (20) of the Act, any Affiliate of the Company or of any such other Sponsor or Sponsor Affiliate, any tenant leasing all or a portion of the Project from the Company or any other existing Sponsor or Sponsor Affiliate, any developer in a build-to-suit arrangement or other leasing arrangement with respect to the Project, any lessor of equipment or other property comprising a part of the Project, and any financing entity or other third party investing in, providing funds for or otherwise making investment in real or personal property in connection with the Project. The Company shall notify the County in writing of the identity of any other Sponsor, Sponsor Affiliate or other Co-Investor and shall, to the extent the Company and any such other Sponsor, Sponsor Affiliate, or other Co-Investor intend to extend the benefits of the FILOT to property owned by any such Sponsor, Sponsor Affiliate, or other Co-Investor pursuant to Section 4.22 hereof, comply with any additional notice requirements, or other applicable provisions, of the Act.

"Commencement Date" shall mean the last day of the property tax year during which Economic Development Property is first placed in service, except that this date must not be later than the last day of the property tax year which is three years from the year in which the County and the Sponsor execute this Fee Agreement. Notwithstanding the foregoing, placing the initial portion of the project into service after the Commencement Date does not void this Agreement, however the Investment Period begins to run upon the expiration of the aforementioned three (3) year window.

"County" shall mean Darlington County, South Carolina, a body politic and corporate and political subdivision of the State of South Carolina, its successors and assigns, acting by and through the Darlington County Council as the governing body of the County.

"County Administrator" shall mean the person appointed by the County Council to act as county administrator of the County at any one time during the term of this Fee Agreement, or in the event that the form of government of the County changes from that which is in place at the time of the execution of this Fee Agreement, the person who is authorized to perform the managerial and/or administrative duties presently assigned to the County Administrator.

"County Council" shall mean the Darlington County Council, the governing body of the County.

"Diminution of Value" in respect of any Phase of the Project shall mean any reduction in the value based on original fair market value as determined in Step 1 of Section 4.2 of this Fee Agreement, of the items which constitute a part of the Phase which may be caused by (i) the Sponsor's removal of equipment pursuant to Section 4.6 of this Fee Agreement, (ii) a casualty to the Phase of the Project, or any part thereof, described in Section 4.7 of this Fee Agreement or (iii) a condemnation to the Phase of the Project, or any part thereof, described in Section 4.8 of this Fee Agreement.

"Economic Development Property" shall mean all items of real and tangible personal property comprising the Project which are eligible for inclusion as economic development property under the Act, become subject to this Fee Agreement, and which are identified by the Sponsor in connection with its annual filing of a SCDOR PT-100, PT-300 or comparable form with the South Carolina Department of Revenue (as such filing may be amended from time to time) for each year within the Investment Period. Title to all Economic Development Property shall at all times remain vested in the Sponsor, except as may be necessary to take advantage of Section 12-44-160 of the Act.

"Equipment" shall mean all of the equipment and fixtures, together with any and all additions, accessions, replacements and substitutions thereto or therefor to the extent such equipment and fixtures become a part of the Project under this Fee Agreement.

"Event of Default" shall mean any Event of Default specified in Section 4.14 of this Fee Agreement. "Fee Agreement" shall mean this Fee-In-Lieu of Ad Valorem Taxes Agreement.

"Fee Term" or "Term" shall mean the period from the date of delivery of this Fee Agreement until the last Phase Termination Date unless sooner terminated or extended pursuant to the terms of this Fee Agreement.

"FILOT" shall mean the fee-in-lieu of taxes, which the Sponsor is obligated to pay to the County pursuant to Section 4.2 hereof.

"FILOT Payments" shall mean the payments to be made by the Sponsor pursuant to Section 4.2 hereof.

"FILOT Revenues" shall mean the revenues received by the County from the Sponsor's payment of the FILOT.

"Force Majeure" shall mean any event of Force Majeure as defined in Section 5.10 of this Fee Agreement.

"Investment Period" shall mean the period commencing in 2023 and ending on the last day of the fifth property tax year following the earlier of the property tax year in which Economic Development Property is placed in service if begun before the expiration of the Commencement Date or the property tax year in which this Fee Agreement is executed; provided a later date may be agreed to by the Sponsor and County pursuant to Section 12-44-30(13) of the Act.

"Land" shall mean the real estate upon which the Project is to be located, as described on Exhibit A attached hereto, as Exhibit A may be supplemented from time to time in accordance with the provisions hereof.

"Multi-County Park" shall mean that multi-county industrial/business park established pursuant to a qualifying agreement with Florence County, dated April 21, 2016, and any amendments there to (the "Multi County Park Agreement").

"Multi-County Park Act" shall mean Title 4, Chapter 1 of the Code, as amended through the date hereof.

"Negotiated FILOT Payments" shall mean the FILOT payments due pursuant to Section 4.2 hereof with respect to that portion of the Project consisting of Economic Development Property.

"Net FILOT Payment" shall mean total annual payments of \$4,200.00 per MWac for the first through tenth payments due under this Fee Agreement, and total annual payments of \$3,900.00 per MWac for the eleventh through thirtieth payments due under this Fee Agreement and any subsequent year of this Fee Agreement, for those years for which a FILOT is due. It is anticipated that the first Net FILOT Payment due hereunder shall be the payment for property tax year 2024, due and payable to the County on or before January 15, 2025. Provided, the Net FILOT Payments shall be increased in any year in which the total MWac capacity of the Project, as reflected on its annual capacity affidavit to the County (to be submitted no later than December 31 of the current year (Exhibit C)), exceeds 24 MWac, in proportion to the excess.

"Non-Qualifying Property" shall mean that portion of the Project consisting of: (i) property as to which the Sponsor incurred expenditures prior to the Investment Period or, except as to Replacement Property, after the end of the Investment Period; (ii) Existing Property; and (iii) any released property or other property which fails or ceases to qualify for FILOT Payments, including without limitation property as to which the Sponsor has terminated the FILOT pursuant to Section 4.19(a) hereof. The Sponsor agrees that the real estate improvements on the Real Property as of the date of this Fee Agreement shall constitute Non-Qualifying Property for purposes of this Fee Agreement.

"Phase" or "Phases" in respect of the Project shall mean the Building and Equipment placed in service during each year of the Investment Period.

"Phase Termination Date" shall mean with respect to each Phase of the Project the day thirty (30) years after each such Phase of the Project becomes subject to the terms of this Fee Agreement with an option to extend the term for a further ten (10) years in accordance with the Act. Anything contained herein to the contrary notwithstanding, the last Phase Termination Date shall be no later than the later of: (a) December 31, 2067, unless an extension of time in which to complete the Project is granted by the County pursuant to Section 12-44-30(13) of the Act or (b) December 31 of the year of the expiration of the maximum period of years that the annual fee payment is available to the Sponsor under Section 12-44-30(20) of the Act, as amended.

"Power Purchase Agreement" shall mean any agreement applicable to the Project whereby any third-party contracts to purchase electricity generated by the Project for any term.

"Project" shall mean the Structure and the Equipment, together with the acquisition and installation thereof as acquired, in Phases.

"Project Commitment" shall have the meaning set forth in the recitals to this Fee Agreement. "Qualifying Infrastructure Costs" shall have the meaning set forth in Section 4.1 of this Fee Agreement.

"Real Property" shall mean the Land identified on Exhibit A, together with all and singular rights, members, hereditaments and appurtenances belonging or in any way incident or appertaining thereto to the extent such become a part of the Project under this Fee Agreement, all improvements now or hereafter situated thereon and all fixtures now or hereafter attached thereto, to the extent such improvements and fixtures become part of the Project under this Fee Agreement.

"Replacement Property" shall mean any property which is placed in service as a replacement for any item of Equipment which is scrapped or sold by the Sponsor and treated as a Removed Component under Section 4.6 hereof regardless of whether such property serves the same function as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment, but only to the extent that such property may be included in the calculation of the FILOT pursuant to Section 4.2 hereof and Section 12-44-60 of the Code.

"Special Source Revenue Credit" shall mean the Special Source Revenue Credit described in Section 4.1 hereof.

"Sponsor" shall mean Hawfinch Solar, LLC, a South Carolina limited liability company duly qualified to transact business in the State of South Carolina and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any assignee hereunder which is designated by the Sponsor and approved or ratified by the County.

"Sponsor Affiliate" shall have the meaning set forth in Section 12-44-30(20) of the Code.

"Structure" shall mean the structures and other improvements to be constructed or installed upon the Real Property as part of the implementation of the Project.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall be deemed to include any and all amendments, supplements, addenda, and modifications to such agreement or document.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations of the County. The County hereby represents and warrants to the Sponsor as follows:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provisions of the Act is authorized and empowered to enter into the transactions contemplated by this Fee Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein.

(b) The County, based on representations of the Sponsor, has determined that the Project will serve the purposes of the Act, and has made all other findings of fact required by the Act in order to designate the Project as Economic Development Property.

(c) The Project constitutes a "project" within the meaning of the Act.

(d) By proper action of the County Council, the County has duly authorized the execution and delivery of this Fee Agreement and any and all actions necessary and appropriate to consummate the transactions contemplated hereby.

(e) This Fee Agreement has been duly executed and delivered on behalf of the County.

(f) The County agrees to use its best faith efforts to cause the Land to be located within the Multi-County Park, and the County will diligently take all reasonable acts to ensure that the Project will continuously be included with the boundaries of the Multi-County Park or another multi-county park in order that the maximum tax benefits afforded by the laws of the State of South Carolina for projects in the County located within multi-county industrial parks will be available to the Sponsor.

(g) No actions, suits, proceedings, inquiries, or investigations known to the undersigned representatives of the County are pending or threatened against or affecting the County in any court or before any governmental authority or arbitration board or tribunal, which could materially adversely affect the transactions contemplated by this Fee Agreement or which could, in any way, adversely affect the

validity or enforceability of this Fee Agreement.

Section 2.2. Representations of the Sponsor. The Sponsor hereby represents and warrants to the County as follows:

(a) The Sponsor is duly organized and in good standing under the laws of the State of South Carolina, has power to enter into this Fee Agreement, and by proper company action has duly authorized the execution and delivery of this Fee Agreement.

(b) The Sponsor's execution and delivery of this Fee Agreement and its compliance with the provisions hereof will not result in a default, not waived or cured, under any company restriction or any agreement or instrument to which the Sponsor is now a party or by which it is bound.

(c) The Sponsor intends to operate the Project as a "project" within the meaning of the Act as in effect on the date hereof. The Sponsor intends to develop, install or operate, as applicable solar power generating facilities, to conduct other legal activities and functions with respect thereto, and for such other purposes permitted under the Act as the Sponsor may deem appropriate.

(d) The availability of the payment in lieu of taxes with regard to the Economic Development Property authorized by the Act has induced the Sponsor to undertake the Project in the County.

(e) The Sponsor plans and commits to achieve its Project Commitment by the end of the Investment Period.

(f) The income tax year of the Sponsor, and accordingly the property tax year, for federal income tax purposes, ends on December 31.

(g) The Sponsor and the Project shall comply with the County's Development Standards Ordinance as applicable to solar energy systems at the time Sponsor has submitted or caused to be submitted an application for any required zoning permits, as well as the decommissioning requirement that appears in the County's Development Standards Ordinance as of the date of this Fee Agreement.¹

ARTICLE III COMMENCEMENT AND COMPLETION OF THE PROJECT

¹ The Development Standards Ordinance as of the date of this Fee Agreement requires that a solar energy project:

"Submit and maintain an updated facility decommission plan. The latest facility decommission plan shall be recorded in the county's clerk of courts office.

An applicant must include a decommissioning plan that describes the anticipated life of the solar energy system. Following a continuous six (6) month period in which no electricity is generated, the permit holder will have six (6) months to complete decommissioning of the solar energy system. Decommissioning includes removal of solar panels, buildings, cabling, electrical components and any other associated facilities below grade as described in the decommissioning plan. No later than thirty (30) days following the sixth (6th) anniversary of the operation date of the solar energy system, the owner of the solar energy system must provide Darlington County with a \$50,000 surety or performance bond to be maintained by the solar energy system owner or subsequent owner(s) until the solar energy system is decommissioned. Prior to the issuance of any electrical permit, the owner of the solar energy system must submit a notarized affidavit acknowledging the above decommissioning obligations. Decommissioning Plan must be passed by conveyance to successive owner(s)."

Section 3.1. *The Project.* The Sponsor has acquired and/or installed since the Commencement Date or made plans for the acquisition and/or installation of certain Equipment on the Land which comprises the Project.

Pursuant to the Act, the Sponsor and the County hereby agree that the property comprising the Project shall be Economic Development Property as defined under the Act.

Section 3.2. *Diligent Completion.* The Sponsor agrees to use its reasonable efforts to cause the acquisition, construction and installation of the Project to be completed as soon as practicable.

ARTICLE IV PAYMENTS IN LIEU OF TAXES

Section 4.1. *Special Source Revenue Credit.* The County hereby grants to the Sponsor, subject to the provisions herein, and the Sponsor hereby accepts from the County, a Special Source Revenue Credit, in reimbursement of investment in Qualifying Infrastructure Costs as described below, to be applied to its annual fee-in-lieu of taxes liability equal to an amount equal to the FILOT Payments due under this Fee Agreement, to be calculated as set forth in Section 4.2 (but excluding any FILOT Payments due under Section 4.1(d) or Section 4.2(d) hereof), minus the Net FILOT Payment. For illustration purposes, and only as a means of illustration, a formula of this calculation is shown on Exhibit B, attached hereto.

(a) The Special Source Revenue Credit shall be effective starting with the first Net FILOT Payment due hereunder and shall remain effective for the entire Fee Term. For purposes of this Fee Agreement, "Qualifying Infrastructure Costs" shall include but not be limited to, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the Project and for improved or unimproved real estate and machinery and equipment in connection with the Project, and any other expenditures authorized by Section 4-29-68 of the Code.

(b) In order to receive the Special Source Revenue Credit on the Non-Qualifying Property, the Sponsor agrees to waive the tax exemptions that otherwise may be applicable if the Non-Qualifying Property were subject to ad valorem taxes, including the exemptions allowed pursuant to Section 3(g) of Article X of the Constitution of the State of South Carolina, and the exemptions allowed pursuant to Sections 12-37-220(B)(32) and (34) of the Code.

(c) If for any reason the FILOT Payment to be made with respect to any year is less than the Net FILOT Payment, thus resulting in an SSRC that is a negative number, and if a court of competent jurisdiction holds or determines that a negative SSRC is not permitted under the Park Act, the Company shall not be entitled to receive the SSRC with respect to such year and shall make an additional payment to the County that is equal to the difference between the Net FILOT Payment and the FILOT Payment of that given year (excluding any FILOT Payments due under Section 4.1(d) or Section 4.2(d) hereof, which shall also be due). Any payment made under the foregoing sentence shall be due at the time the corresponding FILOT Payment is due, shall be treated as a FILOT Payment under this Fee Agreement and shall be subject to statutory interest if not paid when due pursuant to Section 12-54-25, Code of Law of South Carolina 1976, as amended, as allowed under the FILOT Act.

(d) In the event (i) the Sponsor willfully terminates this Fee Agreement for any reason except in the event of a Force Majeure as defined in section 5.10 herein, (ii) the County terminates this Fee Agreement due to a default hereunder by the Sponsor, subject to cure rights, or (iii) the Sponsor fail to make the Project Commitment by the end of the Investment Period, then, upon demand by the County in writing, the Sponsor shall pay to the County the difference between the total FILOT Payments actually paid during

the term of the Fee Agreement and the amount which would have been due had the property been subject to FILOT Payments determined under Section 4.2 (Steps 1-3 only) less a special source revenue credit of sixty-five percent (65%) for each year in which a FILOT Payment was to be made with statutory interest on such amount calculated pursuant to Section 12-54-25 of the Code of Laws of South Carolina 1976, as amended. Payments made under Section 4.1(e) of this Fee Agreement shall be considered as having been made for purposes of applying this Section 4.1(d), whether that results in a positive or negative increase to the payment due under this Section 4.1(d). In the event that Section 4.1(d)(iii) is triggered but the Fee Agreement remains in effect, all future FILOT Payments due hereunder shall be calculated in accordance with Section 4.2 (Steps 1-3 only) less a special source revenue credit of sixty-five percent (65%), in lieu of the special source revenue credit described in the first paragraph of this Section 4.1.

(e) The Sponsor shall make Net FILOT Payments for each year in which a Power Purchase Agreement is in place. The Sponsor recognizes that the County offered the incentives described herein in reliance on the understanding that the initial Power Purchase Agreement applicable to the Project has a term of no less than 15 years. In the event of a termination of this Fee Agreement during the term of an applicable Power Purchase Agreement, the Sponsor shall be responsible for the remainder of such payments, which shall be due and payable within ninety (90) days of termination of this Fee Agreement.

Section 4.2. Negotiated FILOT Payments.

(a) Pursuant to Section 12-44-50 of the Act, the Sponsor is required to make payments in lieu of ad valorem taxes to the County with respect to the Project. Inasmuch as the Sponsor anticipates the Project will involve an initial investment of sufficient sums to qualify to enter into a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the Act, the County and the Sponsor have negotiated the amount of the payments in lieu of taxes in accordance therewith. In accordance therewith, the Sponsor shall make payments in lieu of ad valorem taxes on all the Equipment, Structures and Real Property which collectively comprise the Project and are placed in service, as follows: the Sponsor shall make payments in lieu of ad valorem taxes with respect to each Phase of the Project placed in service on or before each December 31 through December 31, 2028, said payments to be made annually and to be due and payable and subject to penalty assessments on the same dates and in the same manner as prescribed by the County for ad valorem taxes, less the Special Source Revenue Credit. The amount of such equal annual payments in lieu of taxes shall be determined by the following procedure (subject, in any event, to the required procedures under the Act and to Section 4.4 hereof):

Step 1: Determine the fair market value of the improvements to the Real Property and Equipment in the Phase of the Project placed in service in any given year for such year and for the following 29 years using the original income tax basis for State income tax purposes less depreciation for each year allowable to the Sponsor for any Equipment as determined in accordance with Title 12 of the Code, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement, except that no extraordinary obsolescence shall be allowable but taking into account all applicable property tax exemptions which would be allowed to the Sponsor under State law, if the property were taxable, except those exemptions specifically disallowed under Section 12-44-50(A)(2) of the Act, as amended and in effect on December 31 of the year in which each Phase becomes subject to the Fee Agreement. The County and Sponsor also agree pursuant to Section 12-44-50(A)(1) of the Act that the value of the Real Property included in any Phase of the Project shall be its fair market value as determined by appraisal, but the fair market value of the Real Property shall be subject to reappraisal by the South Carolina Department of Revenue not more than once every five (5) years.

Step 2: Apply an assessment ratio of 6% to the fair market value as determined for each year in Step 1 to establish the taxable value of each Phase of the Project in the year it is placed in service and in each of the twenty-nine (29) years thereafter or such longer period of years that the annual fee payment is

permitted to be made by the Sponsor under the Act, as amended.

Step 3: Use a millage rate of 323.6 mills for Tax Map Parcel Numbers: 015-00-01-001, 015-00-01-002, 014-00-02-011, and 015-00-01-005, which is the millage rate applicable to the four parcels comprising the Project on June 30, 2022, to determine the amount of the payments in lieu of taxes which would be due in each year of the Fee Term on the payment dates prescribed by the County for such payments or such longer period of years that the annual fee payment is permitted to be made by the Sponsor under the Act, as amended.

Step 4: Increase or decrease the calculated amounts determined in the previous Steps as described in Section 4.1 herein. The increase or decrease under Section 4.1 shall be shown on the bill sent by the County to the Sponsor or paid by a check from the County Treasurer.

In the event that it is determined by a final order of a court of competent jurisdiction or by agreement of the parties that the payment in lieu of taxes applicable to this transaction is to be calculated differently than described above, the payment shall be reset at the permitted level so determined.

In the event that the Act and/or the above-described payments in lieu of taxes are declared invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions that such payments and this Fee Agreement be reformed so as to most closely effectuate the legal, valid, and enforceable intent thereof and so as to afford the Sponsor with the benefits to be derived hereof, it being the intention of the County to offer the Sponsor an inducement to locate the Project in the County. If the Project is deemed to be subject to ad valorem taxation, the payment in lieu of ad valorem taxes to be paid to the County by the Sponsor shall become equal to the amount which would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the Project was not and had not been Economic Development Property under the Act. In such event, any amount determined to be due and owing to the County from the Sponsor with respect to a year or years for which payments in lieu of ad valorem taxes have been previously remitted by the Sponsor to the County hereunder, shall be reduced by the total amount of payments in lieu of ad valorem taxes made by the Sponsor with respect to the Project pursuant to the terms hereof.

(b) The Sponsor agree to waive the benefits of any future legislative enactment that reduces property taxes available to solar farm property. If Sponsor claims any such benefits in addition to the benefits provided in this Fee Agreement, such action shall constitute an early termination of this Fee Agreement by Sponsor.

(c) In the event the Sponsor has not invested at least \$2,500,000.00 by the end of the Investment Period, the Sponsor shall owe the County retroactively the difference between ad valorem property taxes on the Real Property and the Equipment subject to payments in lieu of taxes under this Fee Agreement computed as if this Fee Agreement had not been in effect for such retroactive period and the payments in lieu of taxes required to be made under this Fee Agreement for that retroactive period, taking into account exemptions and/or abatements from property taxes that would have been available to the Sponsor, including but not limited to any exemption and/or abatement provided pursuant to Section 12-37-220(A)(7) of the Code (hereinafter "*Retroactive Tax Payment*").

Section 4.3. *Payments in Lieu of Taxes on Replacement Property.* If the Sponsor elects to replace any Removed Components (as defined below) and to substitute such Removed Components with Replacement Property as a part of the Project, then, pursuant and subject to Section 12-44-60 of the Act, the Sponsor shall make statutory payments in lieu of ad valorem taxes with regard to such Replacement Property as follows (subject in all events to the applicable provisions of the Act):

(a) to the extent that the income tax basis of the Replacement Property (the "Replacement Value") is less than or equal to the original income tax basis of the Removed Components (the "Original Value") the amount of the payments in lieu of taxes to be made by the Sponsor with respect to such Replacement Property shall be calculated in accordance with Section 4.2 hereof; provided, however, in making such calculations, the original cost to be used in Step 1 of Section 4.2 shall be equal to the lesser of (x) the Replacement Value and (y) the Original Value, and the number of annual payments to be made with respect to the Replacement Property shall be equal to thirty (30) (or, if greater, the maximum number of years for which the annual fee payments are available to the Sponsor for each portion of the Project under the Act, as amended) minus the number of annual payments which have been made with respect to the oldest Removed Components disposed of in the same property tax year as the Replacement Property is placed in service; and

(b) to the extent that the Replacement Value exceeds the Original Value of the Removed Components (the "Excess Value"), the payments in lieu of taxes to be made by the Sponsor with respect to the Excess Value shall be equal to the payment that would be due if the property were not Economic Development Property.

Section 4.4. Reductions in Payments in Lieu of Taxes Upon Removal, Condemnation or Casualty. In the event of a Diminution in Value of any Phase of the Project, the payment in lieu of taxes with regard to that Phase of the Project shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of that Phase of the Project as determined pursuant to Step 1 of Section 4.2 hereof.

Section 4.5. Place and Allocation of Payments in Lieu of Taxes. The Sponsor shall make the above-described payments in lieu of taxes directly to the County in accordance with applicable law.

Section 4.6. Removal of Equipment. The Sponsor shall be entitled to remove the following types of components or Phases of the Project from the Project with the result that said components or Phases (the "Removed Components") shall no longer be considered a part of the Project and shall no longer be subject to the terms of this Fee Agreement: (a) components or Phases which become subject to statutory payments in lieu of ad valorem taxes; (b) components or Phases of the Project or portions thereof which the Sponsor, in its sole discretion, determines to be inadequate, obsolete, uneconomic, worn-out, damaged, unsuitable, undesirable or unnecessary; or (c) components or Phases of the Project or portions thereof which the Sponsor, in its sole discretion, elect to remove pursuant to Section 4.7(c) or Section 4.8(b)(iii) hereof.

Section 4.7. Damage or Destruction of Project.

(a) Election to Terminate. Subject to Section 4.1(d) hereof, in the event the Project is damaged by fire, explosion, or any other casualty, the Sponsor shall be entitled to terminate this Fee Agreement; provided, however, that (i) if there has been only partial damage of the Project due to any of such casualties and the Sponsor elects to terminate this Fee Agreement, and (ii) the Sponsor has not invested at least \$2,500,000.00 in the Project at the time of such termination, the Sponsor shall owe the County the Retroactive Tax Payment, but to the extent permitted by law if the Sponsor has invested at least \$2,500,000.00 in the Project within the time period required under the Act, it shall owe no Retroactive Tax Payment.

(b) Election to Rebuild. In the event the Project is damaged by fire, explosion, or any other casualty, and if the Sponsor does not elect to terminate this Fee Agreement, the Sponsor may in their sole discretion commence to restore the Project with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Sponsor. All such restorations and replacements shall be considered, to the extent permitted

by law, substitutions of the destroyed portions of the Project and shall be considered part of the Project for all purposes hereof, including, but not limited to any amounts due by the Sponsor to the County under Section 4.2 hereof.

(c) Election to Remove. In the event the Sponsor elects not to terminate this Fee Agreement pursuant to subsection (a) and elect not to rebuild pursuant to subsection (b), the damaged portions of the Project shall be treated as Removed Components.

Section 4.8. Condemnation.

(a) Complete Taking. If at any time during the Fee Term title to or temporary use of the entire Project should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation or the right of eminent domain, or by voluntary transfer under threat of such taking, or in the event that title to a portion of the Project shall be taken rendering continued occupancy of the Project commercially infeasible in the judgment of the Sponsor, the Sponsor shall have the option to terminate this Fee Agreement as of the time of vesting of title by sending written notice to the County within a reasonable period of time following such vesting.

(b) Partial Taking. In the event of a partial taking of a significant portion of the Project or transfer in lieu thereof, the Sponsor may elect: (i) to terminate this Fee Agreement; provided, however, that if the Sponsor has not invested at least \$2,500,000.00 in the Project at the time of such termination, the Sponsor shall owe the County the Retroactive Tax Payment, but to the extent permitted by law if the Sponsor has invested at least \$2,500,000.00 in the Project within the time period required under the Act, it shall owe no Retroactive Tax Payment; (ii) to repair and restore the Project, with such reductions or enlargements in the scope of the Project, changes, alterations and modifications (including the substitution and addition of other property) as may be desired by the Sponsor; or (iii) to treat the portions of the Project so taken as Removed Components.

Section 4.9. Merger of Sponsor with Related Party. The County agrees that, without again obtaining the approval of the County (to the extent permitted by the Act), the Sponsor may merge with or be acquired by a related party so long as the surviving company has an equal or greater net asset value of the Sponsor.

Section 4.10. Indemnification Covenants. (a) The Sponsor shall and agrees to indemnify and save the County, its agents, officers, or employees harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Project during the Fee Term, and the Sponsor further, shall indemnify and save the County harmless against and from all claims arising during the term of the Fee Agreement from (i) any condition of the Project, (ii) any breach or default on the part of the Sponsor in the performance of any of its obligations under this Fee Agreement, (iii) any act of negligence of the Sponsor or any of its agents, servants, or employees on or with respect to the Project, (iv) any act of negligence of any assignee or sublessee of the Sponsor with respect to the Project, or of any agents, servants, or employees of any assignee or sublessee of the Sponsor with respect to the Project, or (v) any environmental violation, condition, or effect with respect to the Project. The Sponsor shall indemnify and save the County, its agents, officers, or employees harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid in connection with the Project or in connection with any action or proceeding brought thereon, and upon notice from the County, the Sponsor shall defend them or either of them in any such action, prosecution or proceeding.

(b) Notwithstanding the fact that it is the intention of the parties that the County, its agents, officers, or employees, shall not incur pecuniary liability by reason of the terms of this Fee Agreement, or the

undertakings required of the County hereunder, or by reason of the performance of any act requested of it by the Sponsor, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County, its agents, officers or employers should incur any such pecuniary liability, then in such event the Sponsor shall indemnify and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Sponsor shall defend them in any such action or proceeding.

These indemnification covenants shall be considered included in and incorporated by reference in subsequent documents after the closing which the County is requested to sign, and any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants.

Section 4.11. Confidentiality/Limitation on Access to Project. The County acknowledges and understands that the Sponsor utilizes confidential and proprietary "state-of-the-art" trade equipment and techniques and that a disclosure of any information relating to such equipment or techniques, including but not limited to disclosures of financial or other information concerning the Sponsor's operations would result in substantial harm to the Sponsor and could thereby have a significant detrimental impact on the Sponsor's employees and also upon the County. Therefore, subject to the provisions of Section 4.12 hereof, the County agrees that, except as required by law and pursuant to the County's police powers and except as deemed reasonably necessary by the County in the performance of its duties as tax assessor and collector, and/or its duties as Auditor, neither the County nor any employee, agent or contractor of the County: (i) shall request or be entitled to receive any such confidential or proprietary information; (ii) shall disclose or otherwise divulge any such confidential or proprietary information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by State law. Prior to disclosing any confidential or proprietary information or allowing inspections of the Project or any property associated therewith, the Sponsor may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees or agents of the County or any supporting or cooperating governmental agencies who would gather, receive or review such information or conduct or review the results of any inspections.

Section 4.12. Records and Reports. The Sponsor agrees to maintain or cause to be maintained and will make available to the County for inspection upon request of the County such books and records with respect to the Project as will permit the identification of the Equipment placed in service in each property tax year during the Investment Period, the amount of investment with respect thereto, and its computations of all payments in lieu of taxes made hereunder and to comply with all reporting requirements of the State of South Carolina and the County applicable to property subject to payments in lieu of taxes under the Act, including without limitation the reports required by Section 12-44-90 of the Act (collectively, "Filings").

Notwithstanding any other provision of this Section 4.12, the Sponsor may designate with respect to any Filings delivered to the County segments thereof that the Sponsor believes contain proprietary, confidential, or trade secret matters. The County shall conform, to the extent permitted by law, with all reasonable, written requests made by the Sponsor with respect to maintaining confidentiality of such designated segments.

The Sponsor shall make all required annual property tax/FILOT filings on the required PT-300 (or successor) form with the South Carolina Department of Revenue and shall cause copies of all such filings to be made with the County Auditor, Assessor, and Treasurer as required by Section 12-44-90 of the Act. Such filings shall be made on or before the due date for filing with the South Carolina Department of Revenue.

Section 4.13. Payment of Administrative Expenses. The Sponsor will reimburse the County from time to time for its Administrative Expenses promptly upon written request therefor, but in no event later than 60 days after receiving written notice from the County specifying the nature of such expense and requesting the payment of the same.

Section 4.14. Collection and Enforcement Rights of County. The parties acknowledge that, as provided in Section 12-44-90 of the Code, the County's right to receive payments in lieu of taxes hereunder shall be the same as its rights conferred under Title 12 of the Code relating to the collection and enforcement of ad valorem property taxes and, for purposes of this application, payments in lieu of taxes due hereunder shall be considered a property tax. The parties acknowledge that the County's right to receive all payments hereunder shall be the same as its rights conferred under Title 12 of the Code relating to the collection and enforcement of ad valorem property taxes and, for purposes of this application, all payments due hereunder shall be considered a property tax. Prior to the due date of the first PILOT Payment hereunder, the Sponsor shall provide an irrevocable surety or performance bond or irrevocable letter of credit to secure the performance of its obligations hereunder, including but not limited to any payment obligations that may arise pursuant to Sections 4.1(d), 4.1(e), and 4.19. Coverage under such surety or performance bond or irrevocable letter of credit shall be in at least the amounts set forth in Exhibit D. The surety or performance bond or irrevocable letter of credit shall be for the benefit of the County, and the issuer as well as the form and substance thereof must be agreeable to the County, as determined by the County Administrator, provided that consent may not be unreasonably withheld, conditioned, or delayed. Notwithstanding any other provision of this Section 4.14, a parent company guarantee submitted to the County on behalf of the Sponsor shall release the Sponsor from the requirement to provide an irrevocable surety, performance bond, or irrevocable letter of credit.

Section 4.15. Assignment and Subletting. This Fee Agreement may be assigned, in whole or in part and the Project may be subleased as a whole or in part by the Sponsor so long as such assignment or sublease is made in compliance with Section 12-44-120 of the Act; provided, however, that in connection with any assignment or total subleasing by the Sponsor in which the Sponsor requests the release of the Sponsor from this Fee Agreement, the consent of the County shall be required, which consent shall not be unreasonably withheld. The County hereby consents to transfers not requiring its consent, and to the extent any required or further consent is requested, the County may do so by passage of a Resolution.

Section 4.16. County's Estoppel Certificates for Sponsor's Financing Transactions. The County agrees to deliver, and hereby authorizes the County Administrator to execute and deliver on behalf of the County without further action required on the part of the County Council, all at the expense of the Sponsor, respectively, any estoppel certificates, acknowledgements or other documents certifying the full force and effect of this Fee Agreement and the absence of any default hereunder and acknowledging the continuing validity of this Fee Agreement after its transfer required in any financing related transfers authorized by Section 12-44-120 of the Act, as may be reasonably requested by the Sponsor or any lender of the Sponsor from time to time in connection with any financing arrangement or financing related transfers made by the Sponsor as contemplated under Section 12-44-120 of the Act.

Section 4.17. Sponsor's Continuing Obligations After Termination by Sponsor. In the event the Sponsor terminates this Fee Agreement, the Sponsor shall continue to be obligated to the County for its indemnification covenants under Section 4.10, the payment of outstanding Administrative Expenses under Section 4.13, and any outstanding payments in lieu of taxes under Article IV or retroactive payments required under this Fee Agreement or the Act, and all other payments due hereunder.

Section 4.18. Events of Default. The following shall be "Events of Default" under this Fee Agreement, and the term "Events of Default" shall mean, whenever used with reference to this Fee

Agreement, any one or more of the following occurrences:

(a) Failure by the Sponsor to make, upon levy, the payments in lieu of taxes described in Section 4.2 hereof; provided, however, that the Sponsor shall be entitled to all redemption rights granted by applicable statutes; or

(b) Failure by the Sponsor to perform any of the other material terms, conditions, obligations or covenants of the Sponsor hereunder, which failure shall continue for a period of sixty (60) days after written notice from the County to the Sponsor specifying such failure and requesting that it be remedied, unless the County shall agree in writing to an extension of such time prior to its expiration.

Section 4.19. Remedies on Default. Whenever any Event of Default shall have occurred and shall be continuing, the County, after having given written notice to the Sponsor of such default and after the expiration of a thirty (30) cure period the County shall grant to the Sponsor (which cure period shall not be applicable in the case of failure to make the payments in lieu of taxes due under this Fee Agreement), may take any one or more of the following remedial actions:

(a) Terminate the Fee Agreement; or

(b) Take whatever action at law or in equity may appear necessary or desirable to collect the other amounts due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Sponsor under this Fee Agreement; or

(c) In the event of an Event of Default hereunder, if the Sponsor has not caused all solar panels on the Land to be removed within one hundred eighty (180) days, the County and its authorized employees, agents, and third-party contractors shall have the right to enter upon the Land engage in a removal of all remaining solar panels from the Land.

Section 4.20. Remedies Not Exclusive. No remedy conferred upon or reserved to the County under this Fee Agreement is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other lawful remedy now or hereafter existing. No delay or omission to exercise any right or power accruing upon any continuing default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the County to exercise any remedy reserved to it, it shall not be necessary to give notice, other than such notice as may be herein expressly required and such notice required at law or equity which the Sponsor is not competent to waive.

Section 4.21. Decommission Costs. Within six months of the first date upon which the Project produces electricity, Sponsor shall procure and deliver to the County a surety or performance bond or irrevocable letter of credit in the amount of \$50,000 or 125% of the estimated decommission costs associated with the Project, whichever is greater. The estimated decommissioning costs shall be determined by an engineer licensed to practice in South Carolina.

Section 4.22. Sponsors, Co-Investors, and Sponsor Affiliates. The Company may designate, from time to time, other Sponsors, Co-Investors, or Sponsor Affiliates pursuant to the provisions of Sections 12-44-30(19) or (20), respectively, and Section 12-44-130 of the Simplified FILOT Act, which Sponsors or Sponsor Affiliates shall be Persons who join with the Company and other Co-Investors and make investments with respect to the Project, or who participate in the financing of such investments, who agree to be bound by the terms and provisions of this Agreement and who shall be Affiliates of Company or other Sponsors, Co-Investor, Sponsor Affiliates, any tenant leasing all or a portion of the Project from the

Company or any other existing Sponsor, Co-Investor or Sponsor Affiliate or other Persons described in Section 9.01 hereof. All other Sponsors, Co-Investors, or Sponsor Affiliates who otherwise meet the requirements of Section 12-44-30 (19) or (20) and Section 12-44-130 of the Simplified PILOT Act are subject to approval in accordance with Section 12-44-130(D) of the Act. To the extent that the aggregate investment in the Project by the end of the Investment Period by all Sponsors, Co-Investors, and Sponsor Affiliates exceeds \$5,000,000.00, to the extent permitted by Section 12-44-30(19) of the Simplified PILOT Act, all investment by such Sponsors, Co-Investor, and Sponsor Affiliates during the Investment Period shall qualify for the PILOT pursuant to Section 5.01 of this Agreement (subject to the other conditions set forth therein) regardless of whether each such entity invested amounts equal to the Investment Commitment by the end of the Investment Period. Sponsor, Co-Investor, or Sponsor Affiliate shall provide the County and the Department of Revenue with written notice of any other Sponsor or Sponsor Affiliate designated pursuant to this Section 8.04 in accordance with Section 12-44-130(C) of the Simplified PILOT Act. The parties agree that, if any Sponsor, Co-Investor, or Sponsor Affiliate ceases to become party to this Agreement, the Agreement shall continue to remain in effect with respect to any remaining Sponsors or Sponsor Affiliates.

ARTICLE V MISCELLANEOUS

Section 5.1. Notices. Any notice, election, demand, request or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: Darlington County, South Carolina
 Attn: County Administrator
 1 Public Square, Room 210
 Darlington, SC 29532
 FAX: (843) 393-8539

WITH COPIES TO (which shall not constitute notice):

William R. Johnson
Haynsworth Sinkler Boyd, P.A.
1201 Main Street, Suite 2200
Columbia, SC 29201
FAX: (803) 765-1243

AS TO THE SPONSOR: Hawfinch Solar, LLC
 c/o NARENCO, LLC
 ATTENTION: Lisa Federico
 227 Southside Drive Suite B
 Charlotte, NC 28217
 +1 704-930-7700

WITH COPIES TO (which shall not constitute notice):

W. Ford Graham
c/o Deanna Vanover

McGuireWoods LLP
800 E. Canal Street
Richmond, VA 23219
+1 803 251 2305

Section 5.2. Binding Effect. This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Sponsor and the County and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any party of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 5.3. Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 5.4. Governing Law. This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State of South Carolina.

Section 5.5. Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 5.6. Amendments. The provisions of this Fee Agreement may only be modified or amended in writing by an agreement or agreements entered into between the parties.

Section 5.7. Further Assurance. From time to time the County agrees to execute and deliver to the Sponsor such additional instruments as the Sponsor may reasonably request to effectuate the purposes of this Fee Agreement.

Section 5.8. Severability. If any provision of this Fee Agreement is declared illegal, invalid or unenforceable for any reason, the remaining provisions hereof shall be unimpaired and such illegal, invalid or unenforceable provision shall be reformed so as to most closely effectuate the legal, valid and enforceable intent thereof and so as to afford the Sponsor with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Sponsor the strongest inducement possible to locate the Project in the County.

Section 5.9. Limited Obligation. ANY OBLIGATION OF THE COUNTY CREATED BY OR ARISING OUT OF THIS FEE AGREEMENT SHALL BE A LIMITED OBLIGATION OF THE COUNTY, PAYABLE BY THE COUNTY SOLELY FROM THE PROCEEDS DERIVED UNDER

THIS FEE AGREEMENT AND SHALL NOT UNDER ANY CIRCUMSTANCES BE DEEMED TO CONSTITUTE A GENERAL OBLIGATION OF THE COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION.

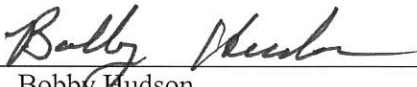
Section 5.10. Force Majeure. Except for payments in lieu of taxes under this Fee Agreement the due dates of which are statutorily mandated, the Sponsor shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fire, floods, inability to obtain materials, conditions arising from government orders, war or national emergency, or acts of God (each a "Force Majeure").

Section 5.11. Execution Disclaimer. Notwithstanding any other provisions, the County is executing this Fee Agreement as a statutory accommodation to assist the Sponsor in achieving the intended benefits and purposes of the Act. The County has made no independent legal or factual investigation regarding the particulars of this transaction, and it executes this Fee Agreement in reliance upon representations by the Sponsor that this document complies with all laws and regulations, particularly those pertinent to industrial development projects in South Carolina.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by its Chairman and to be attested by the County Manager; and the Sponsor has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written. It shall replace all previously executed Fee Agreements between the County and the Sponsor.

DARLINGTON COUNTY, SOUTH CAROLINA

By: 
Bobby Hudson
Chairman of County Council
Darlington County, South Carolina

ATTEST:

By: 
J. Janet Bishop
Clerk of County Council
Darlington County, South Carolina

IN WITNESS WHEREOF, the undersigned has executed this Fee Agreement pursuant to the effective date above.

SPONSOR:

HAWFINCH SOLAR, LLC

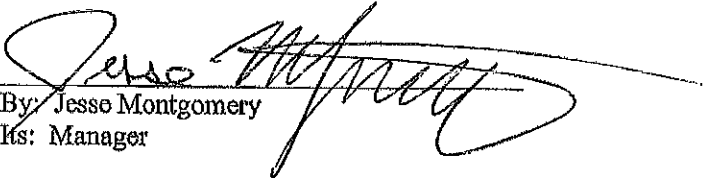

By: Jesse Montgomery
Its: Manager

Exhibit A

Description of Real Estate

A portion of that certain piece, parcel, or tract of land, with all improvements thereon, situate lying or being in the County of Darlington, State of South Carolina, bearing Tax Map Parcel Numbers: 015-00-01-001, 015-00-01-002, 014-00-02-011, and 015-00-01-005.

For illustrative purposes only, see the image below:

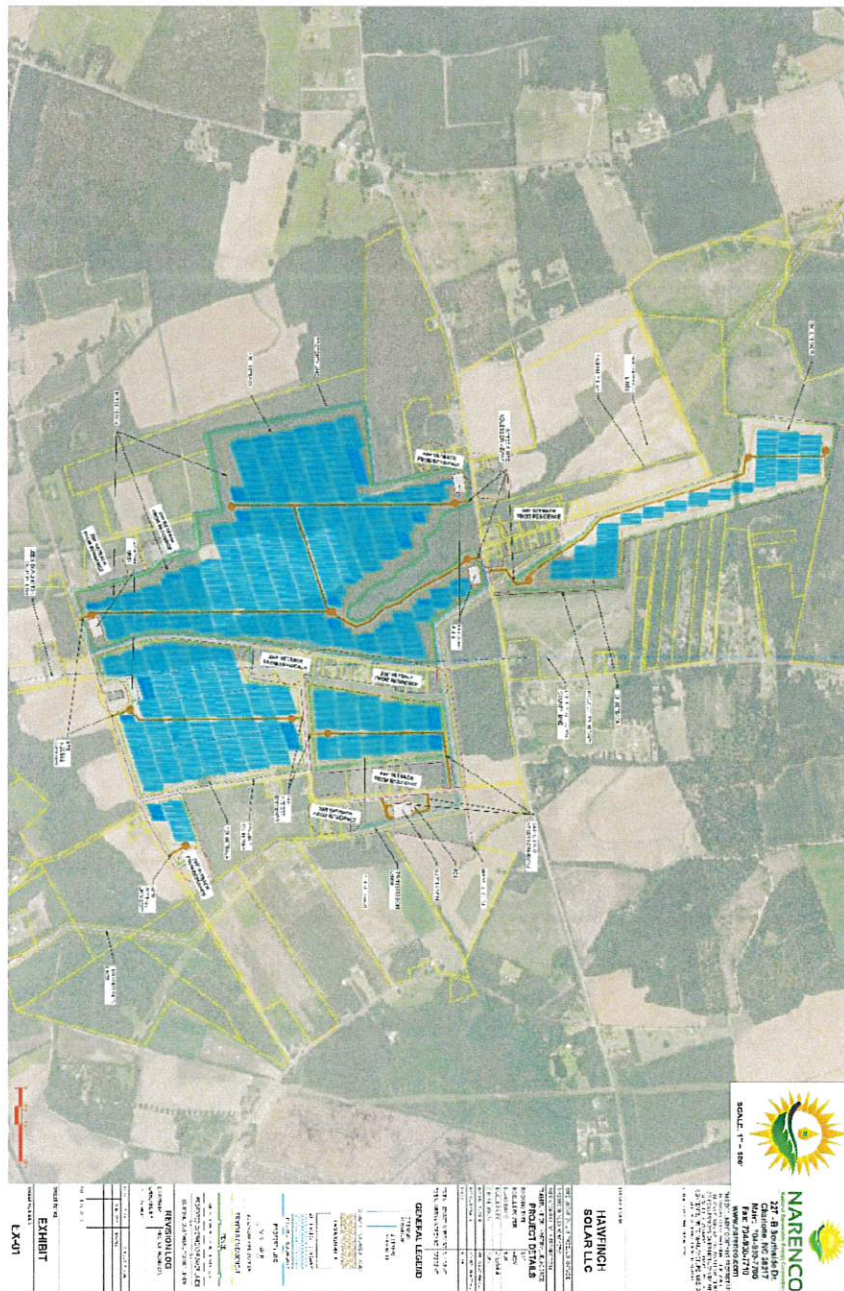


Exhibit B

Illustration of Special Source Revenue Credit Calculation

Negotiated FILOT Payment
(Fair Market Value (as adjusted for depreciation) x 6% Assessment Ratio x 323.6 mills)

-

Net FILOT Payment
For years 1-10: (\$4,200 x MWac)
For years 11-30, and any subsequent year: (\$3,900 x MWac)

=

The Special Source Revenue Credit
(for the applicable year)

Exhibit C

Annual Power Capacity Affidavit
(due on or before December 31st of the current tax year)

[illegible]

In compliance with the 2023 Fee-In-Lieu of Ad Valorem Taxes Agreement between Hawfinch Solar, LLC and Darlington County, South Carolina, I, _____, as authorized signatory of Hawfinch Solar, LLC, do hereby affirm that the energy capacity of the project for the current year has been _____ megawatts of alternating current power. The aforementioned capacity is _____ percent higher than the previous year; (or) _____ percent lower than the previous year; (or) _____ the same as the previous year.

Sworn to and Subscribed before me
this _____ day of _____, 20____.

Notary Public for South Carolina

My Commission expires: _____.

Signature of Sponsor

Title of Sponsor

Exhibit D

Minimum Coverage Amounts

Coverage under the irrevocable surety or performance bond or irrevocable letter of credit issued pursuant to Section 4.14 shall be in the following minimum amounts.

Should a payment obligation under Section 4.1(d), 4.1(e) or 4.19 arise in the following year (with "Year 1" meaning the first year in which a FILOT Payment is due hereunder);

The minimum coverage for such year is:

1	\$40,000
2	\$75,000
3	\$120,000
4	\$150,000
5	\$200,000
6	\$220,000
7	\$250,000
8	\$275,000
9	\$275,000
10	\$275,000
11	\$275,000
12	\$275,000
13	\$250,000
14	\$250,000
15	\$200,000
16	\$200,000
17	\$100,000
18	\$100,000
19	\$50,000
20	\$5,000

Darlington County Recording Page



Darlington Clerk of Court / ROD
Scott B. Suggs
Darlington County Courthouse
1 Public Square - Room B-4
Darlington, SC 29532
(843) 398-4330

OrdinanceNo : **2023-05**



Doc ID - 003889760032

On (Recorded Date) : **7/11/2023**
At (Recorded Time) : **2:21:35 PM**

Recording Pages : **32**
Recording Fee : **\$0.00**

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Index Type : **ORDINANCE**
Type of Instrument :
Type of Transaction: **Ordinance**

First INDEXED NAME

DARLINGTON COUNTY COUNCIL

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Darlington County, South Carolina

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