

Davis Hill Development, LLC

February 4¹², 2021

Attn: Mack Cook
City of Cortland
25 Court Street
Cortland NY 13045

Re: Property Address: 136 Pendleton South Street Cortland, NY 13045
Tax Map and Parcel: 86.83-01-01.000
Deed Reference: {INSERT}

Dear Mack,

Davis Hill Development, LLC ("Company") is in the business of constructing, owning and operating solar photovoltaic energy systems and is interested in obtaining an option to lease a portion of the above-referenced property (the "Property") from City of Cortland ("Landowner") for such purpose. This letter agreement (this "Agreement") sets forth the understanding between us regarding this matter.

Company and Landowner agree as follows:

1. Grant of Lease Option. In consideration of the payment by Company to Landowner of the sum of \$100 (the "Option Fee"), the receipt and sufficiency of which are hereby acknowledged, by signing this Agreement below, Landowner hereby grants to Company an exclusive and irrevocable option (the "Lease Option") to lease up to 10 acres, in the area demarcated in Exhibit A, of the above-referenced property (the "Option Land"), together with an appurtenant access easement from a public right of way and other appurtenant easements and rights, for the purpose of permitting, building and operating a solar energy production facility (the "Solar Facility") on the Option Land under and in accordance with the terms of a lease which contains the material terms attached to this letter as Exhibit A (the "Material Terms"), and the terms described in Section 3 of this Agreement. Landowner represents and warrants to Company that as of the date Landowner signs this Agreement, as reflected on the signature page below (the "Effective Date"), Landowner holds fee simple title to the Property subject to no encumbrances, liens, easements, or other matters recorded or unrecorded affecting title to the Property that would interfere with Company's use of the Option Land as contemplated hereunder and in the Lease (defined below). The Option Fee shall be non-refundable except as set forth below.

2. Term of Lease Option. The term of the Lease Option (the "Term") will be one (1) year, commencing on the Effective Date, provided that Company shall have the option to extend the Term for two (2) consecutive six (6) month periods (each, a "Renewal Term"), in each instance exercisable by Company delivering written notice of such extension to Landowner together with a renewal fee of \$250 prior to the end of the then current original Term or Renewal Term, as applicable. Notwithstanding the foregoing, Company shall also have the right at any time prior to exercising the Lease Option to terminate this Agreement by written notice to Landowner.

3. Exercise of Lease Option. The Lease Option may be exercised at any time during the Term or any Renewal Term by Company notifying Landowner that it is exercising the Lease Option (the “Option Notice”), such Option Notice to be accompanied by a lease containing (a) the Material Terms, (b) a description of the Option Land to be leased, including acreage of such land (the “Leased Property”), (c) a description of the appurtenant rights granted to Company in connection with the Leased Property, (d) an attached survey or site plan description of the Leased Property and appurtenant rights, and (e) such other terms as Company reasonably determines (the “Lease”). Within three (3) business days of Landowner’s receipt from Company of the Option Notice and Lease during the Term, Landowner shall execute and return the Lease to Company for countersignature, following which at Company’s request and cost, the parties will execute and record a notice of the fully executed Lease in accordance with New York law in the Clerk’s Office in the county in which the Property is located.

4. Due Diligence Activities; Landowner’s Representation. During the Term, Company or its representatives may access the Property, including the Option Land, at any time for the purpose of determining the feasibility of solar energy conversion and power generation on the Property and otherwise assessing the Property, which may include conducting studies of available sunlight, water and other data and extracting soil samples, making surveys, physical inspections and investigations, conducting transmission, interconnection and environmental studies and other customary due diligence activities, and installing solar equipment to evaluate the proposed use of the Property under the Lease (collectively, “Due Diligence Activities”). Company will notify Landowner prior to entering onto the Property to conduct Due Diligence Activities and will endeavor to minimize any inconvenience to Landowner. All data and other information derived from Due Diligence Activities will remain the property of Company. Company agrees to repair or pay for the cost of any damage to the Property caused by Company’s Due Diligence Activities.

5. Brokers. Landowner and Company each warrant and represent to the other that neither has employed or dealt with a real estate broker or agent in connection with the transaction contemplated under this Agreement and each agrees indemnify the other against any loss, liability, costs, claims, demands, damages, actions, causes of action, and suits arising out of, or in any manner related to, the alleged employment, engagement or use by the indemnifying party of any real estate broker or agent. The foregoing indemnification obligation will survive the expiration or termination of this Agreement.

6. Notices. All notices or communications given in connection with this Agreement shall be given in writing and shall be delivered in person or sent by nationally recognized overnight courier to the addresses for the parties set forth below their signatures below and shall be deemed given when sent, if delivered in person, or twenty-four (24) hours after having been delivered to an overnight courier, if sent by such courier. Notices may also be sent by email to the email addresses for the parties set forth under their signatures below, provided the sending party receives a confirmation that the email has been completely transmitted without error (auto-responses shall not comply). Emails received on any day that is not a business day, or after 5:00 p.m. local time on a business day, shall be deemed to have been delivered on the next business day. Any party may change its address for notice purposes by giving written notice of such change to the other party in the manner provided in this Section.

7. Default Remedies. If Landowner fails or refuses to perform its obligations under this Agreement, Company shall have the right to a refund of the Option Fee, the right to specific performance and the right to exercise any and all other rights and remedies available at law or in equity for Landowner's breach which remedies shall be cumulative and not exclusive.

8. Recording. The parties won't record this Agreement, but Company shall have the right to record a memorandum of this Agreement in the County Clerk's Office where the Property is located. In the event Company elects to record such a memorandum, Landowner will cooperate with Company in such regard and will execute a memorandum of this Agreement in a form provided by Company and a TP-584 form "Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax", which Company may record at its expense.

9. Confidentiality. Landowner will (a) treat this Agreement and all oral discussions related hereto in strict confidence and (b) except to the extent included in any notice of this Agreement recorded in the public records pursuant to Section 8, shall not disclose any of the particulars of this Agreement to any third parties without the prior written consent of Company in each instance; provided, however, that Landowner may disclose such information to (y) Landowner's personal advisors or (z) pursuant to lawful process, subpoena, or court order, so long as in making such disclosure Landowner advises the person receiving the information of the confidentiality thereof and obtains the agreement of said person not to disclose such information. The foregoing obligation shall survive the expiration or termination of this Agreement.

10. Miscellaneous. Company may assign this Agreement and its rights hereunder at any time during the Term on written notice to Landowner provided that any assignee assumes in writing Company's obligations hereunder arising after such assignment. This Agreement shall be binding upon Landowner and its successors and assigns as owners of the Property and may not be otherwise assigned by Landowner. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without reference to choice of law provisions, contains the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements with respect to the subject matter hereof, if any, between the parties. This Agreement may not be amended, modified, or discharged, nor may any of its terms be waived, except by an agreement in writing signed by both parties. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which, together, shall constitute one and the same document. Landowner understands that there is no assurance that the Solar Facility will be constructed on the Option Land and that Landowner will receive rent under the Lease, even if the Lease Option is exercised.

[Signature Page to Follow]

Please sign in acceptance of the terms of this Agreement in the space provided below.

Sincerely,

COMPANY:

Davis Hill Development, LLC

By:

Date:

Name: Tory Hanna

Title: Business Development and

Origination

Address: 105 Prospect Street

Greenwich, CT 06830

Email: tory.hanna@dhdhsolar.com

AGREED TO AND ACCEPTED BY:

LANDOWNER:

City of Cortland

By:

Date:

Name: ~~Maek Cook~~ Brian Tobin

Title: ~~Director of Public Works~~ Mayor

Address: 25 Court Street Cortland, NY

Email: ~~meek~~ btobin@cortland.org

Exhibit A
Material Terms¹

Parties	Landowner, as landlord (" <u>Landlord</u> ") and Company or its designee, as tenant (" <u>Tenant</u> ").
Leased Property	Up to 10 acres of subject parcel(s), any of the area shown in blue on property description.
Permitted Use	The installation, construction, interconnection, maintenance, ownership, operation, repair, replacement, upgrade and decommissioning of the Solar Facility to be constructed by Tenant on the Leased Property and the production, delivery and sale of electricity produced by the Solar Facility and/or associated Solar Attributes (defined below) and for all other purposes necessary or incidental thereto.
Term	<p>The term of the Lease ("<u>Term</u>") shall consist of the Development Period, the Operations Period and the Decommissioning Period (defined below) and will commence on the effective date of the Lease and continue until the end of the Decommissioning Period immediately following the twentieth (20th) anniversary of the Commercial Operation Date, unless extended or sooner terminated in accordance with the terms hereof.</p> <p>Tenant may renew the Lease for two (2) renewal periods of five (5) years each.</p> <p><u>Development Period</u> – means the period from the effective date of the Lease through the Commercial Operation Date.</p> <p><u>Operations Period</u> – means the period from the Commercial Operation Date until the twentieth (20th) anniversary of such date, as it may be extended.</p> <p><u>Decommissioning Period</u> – means the earlier to occur of 180 days (subject to force majeure extension) following the expiration or earlier termination of the Operations Period, and the date on which Tenant completes its decommissioning obligations.</p>
Early Termination	Tenant may terminate the Lease without penalty upon thirty (30) days' written notice to Landlord (i) at any time during the

¹ Capitalized terms used herein and not otherwise defined shall have the meanings given them in the letter agreement to which this Exhibit A is attached.

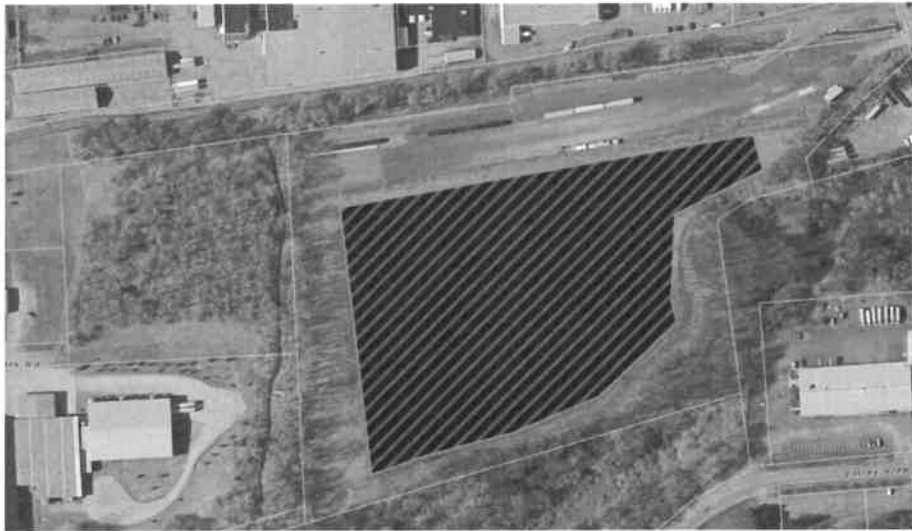
	Development Period, and (ii) at any time following the Commercial Operation Date that a power purchase agreement, tariff or net metering credit purchase agreement then in effect expires or is terminated.
Easements	<p>Landlord shall grant Tenant the following appurtenant easements and rights in the locations specified by Tenant, for the duration of the Term, which shall burden the Property and benefit the Leased Property and run with the land throughout the Term: (i) an access easement and right of way over, across and through the Property in order for Tenant, its employees, invitees, agents, contractors and subcontractors to access by vehicle, foot or otherwise, the Leased Property and the Solar Facility from all nearby public and private rights of way, for the Permitted Use; and (ii) an easement to build, maintain, upgrade, install and from time to time relocate on the Property electrical lines running to and from the Solar Facility, as well as related equipment and communication facilities servicing the Solar Facility including without limitation customer meters and transformers; and (iii) an easement to use portions of the Property for the placement, storage and parking of equipment, materials and vehicles during construction, maintenance and repair of the Solar Facility and during the decommissioning; and (iv) an easement and right to access and utilize existing water, electricity and drainage available at the site during construction, maintenance, repair and decommissioning of the Solar Facility; and (v) an easement for subjacent and lateral support on the Property, as reasonably determined by Tenant, and Landlord will covenant not to excavate, nor permit excavation, so near the sides of or underneath the Solar Facility as to undermine or otherwise adversely affect its stability; and (vi) the right, license and privilege to otherwise enter upon, use and occupy the Property to facilitate use of the Leased Property for the Permitted Use in accordance with the terms hereof.</p> <p>Landlord shall also grant Tenant a solar access easement for the duration of the Term, on terms acceptable to Tenant.</p> <p>At the request of the utility to which the Solar Facility will be interconnected, Landlord shall grant an easement to the utility across the Property in connection with the Solar Facility.</p>
Rent	\$800/usable acre
Taxes	Tenant shall be liable for and shall pay as and when due any tax assessed exclusively against the Solar Facility and its personal property located on the Leased Property during the Term. Landlord shall be liable for and shall pay as and when due all real

	<p>property taxes assessed against the Property and all improvements thereon, other than the Solar Facility, throughout the Term, as well as its personal property located on the Property. Tenant may seek to negotiate a payment in lieu of tax agreement or other understanding with tax authorities in order to provide certainty regarding taxation with respect to the Solar Facility and/or to achieve other objectives and Landlord shall cooperate with Tenant in connection with such efforts.</p>
Ownership	<p>As between Tenant and Landlord, Tenant shall be the owner of the Solar Facility (which is and shall remain personal property), and all products and attributes associated with the existence and operation of the Solar Facility throughout the Term, including, without limitation, electric energy generated by the Solar Facility and all electricity net metering credits, SRECs, electricity capacity, renewable energy certificates, forward capacity payments and other environmental attributes associated therewith and all tax and other governmental financial incentives, credits, offsets or allowances generated and resulting from the existence or operation of the Solar Facility or the production or sale of electricity generated from the Solar Facility (collectively "<u>Solar Attributes</u>").</p>
Decommissioning	<p>Tenant, at its own cost and expense, shall have the right and obligation to decommission the Solar Facility and remove all equipment and personal property from the Leased Property during the Decommissioning Period.</p>
Finance/Transfer	<p>Tenant shall be permitted to finance, mortgage, pledge, sell, assign, and transfer the Lease and the Solar Facility. <u>-The provisions of this contract are intended to be for the benefit of the City of Cortland as landowner and Davis Hill Development LLC. Notwithstanding anything to the contrary contained in this agreement, this agreement including the option and future lease, may not be assigned by Davis Hill Development LLC without the written consent of the City of Cortland. Assignments to affiliates shall not require written consent. In the case of any assignment of the Lease, Tenant shall be relieved of further obligation and liability under the Lease provided the assignee signs an assignment and assumption agreement agreeing to assume Tenant's obligations under the Lease.</u></p>
Insurance	<p>During the Term the parties shall each maintain comprehensive, public liability insurance with respect to the Leased Property and the Property of which the Leased Property is a part, naming the other party as additional insured, shall each maintain on their respective personal property on or about the Property a policy of "all risk" property insurance, with vandalism and malicious</p>

	<p>mischief endorsements, to the extent of at least 100 percent (100%) of full replacement value of their personal property, and shall each maintain Worker's Compensation Insurance as required by law.</p>
Recording	<p>The Lease shall not be recorded. A memorandum of lease shall be recorded in the County Clerk's Office where the Property is located, which shall reference the appurtenant easements and rights granted by Landlord to Tenant and shall otherwise be in form and content reasonably acceptable to Tenant.</p>
Other Terms and Conditions	<p>The Lease shall include other customary terms and conditions reasonably acceptable to Tenant, including, without limitation, provisions relating to the parties' maintenance obligations, representations and warranties, subordination and non-disturbance, condemnation, casualty, indemnification, default, financing party rights and force majeure.</p>

Property Description

A portion of land up to 10 acres (landfill parcel on the West side of Pendleton Street) deemed 'usable acreage' for solar below in crosshatching (total a landfill parcel acreage is shown as approximately 18.57 acres):



Solar Layout



{INSERT DEED}