

COUNTY OF FRANKLIN INDUSTRIAL DEVELOPMENT AGENCY

AND

OYA STATE ROUTE 122 LLC

OMNIBUS AMENDMENT AGREEMENT

Amending Agent Agreement, Leaseback Agreement, Payment in Lieu of Taxes Agreement,
PILOT Mortgage, and related documents,
each dated as of December 31, 2019

**OYA State Route 122 LLC Project
IDA Project No. 1601-19-01A**

Affected Tax Jurisdictions:

**Franklin County
Town of Constable
Malone Chester School District**

TMID No.:

57.-2-28.500

Dated as of July 16, 2021

OMNIBUS AMENDMENT AGREEMENT

THIS OMNIBUS AMENDMENT AGREEMENT (the "Agreement"), dated as of July 16, 2021, by and between the **COUNTY OF FRANKLIN INDUSTRIAL DEVELOPMENT AGENCY**, a public benefit corporation duly existing under the laws of the State of New York with offices at 355 West Main Street, Suite 428, Malone, New York 12953 (the "Agency") and **OYA STATE ROUTE 122 LLC**, a limited liability company organized and duly existing under the laws of the State of Delaware and authorized to conduct business in the State of New York, with offices at 144 Front Street West, Toronto, Ontario, Canada M5J2L7 (the "Company").

WITNESSETH:

WHEREAS, the Agency was created by Title 1 of Article 18-A of the General Municipal Law of the State of New York, as amended, and Chapter 453 of the Laws of 1970 of the State of New York, as amended (hereinafter collectively called the "Act"), as a body corporate and politic and as a public benefit corporation of the State of New York; and

WHEREAS, pursuant to a certain Project Authorizing Resolution adopted by the Agency on October 9, 2019 (the "Project Authorizing Resolution"), the Agency appointed **OYA STATE ROUTE 122 LLC**, for itself and/or on behalf of an entity or entities to be formed (collectively, the "Company") as its agent to undertake a certain project (the "Project") consisting of (i) the acquisition by the Agency of a leasehold interest in approximately **144** acres of real property located at 1436 State Route 122 in the Town of Constable, New York (the "Land", being more particularly described as a portion of tax parcel No. 57.00-2-28.1, as may be subdivided); (ii) the planning, design, construction and operation of a 4.53MWac/6.8MWdc PV community solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"); and

WHEREAS, in furtherance of the Project, and in accordance with the Project Authorizing Resolution, the Agency and the Company entered into a Straight Lease Transaction as of December 31, 2019, which included the following documents and agreements: (i) that certain Agent and Financial Assistance and Project Agreement, dated as of December 31, 2019 (the "Agent Agreement"), (ii) that certain Lease Agreement, dated as of December 31, 2019, a memorandum of which was recorded in the Office of the Franklin County Clerk on January 14, 2020 at **Instrument Number 2020-139** (the "Lease Agreement"), (iii) that certain Leaseback Agreement, dated as of December 31, 2019, a memorandum of which was recorded in the Office of the Franklin County Clerk on January 14, 2020 at **Instrument Number 2020-138** (the "Leaseback Agreement"), (iv) that certain Payment-in-Lieu-of-Tax Agreement, dated as of

December 31, 2019 (the "PILOT Agreement"), (v) that certain PILOT Mortgage, dated as of December 31, 2019 and recorded in the Office of the Franklin County Clerk on January 14, 2020 at **Instrument Number 2020-140** (the "PILOT Mortgage"); (vi) that certain Environmental Compliance and Indemnification Agreement, dated as of December 31, 2020 (the "Environmental Compliance Agreement"); and (vii) related documents (collectively, the "Project Documents"); and

WHEREAS, at the request of the Company, and upon approval of the Agency by resolution adopted July 13, 2021, the parties hereto desire to amend the description of the "Project" as contained within the Project Documents (hereinafter referred to as the "Project Scope Modifications") as follows: (i) the acquisition by the Agency of a leasehold interest in approximately **14456** acres of real property located at 1436 State Route 122 in the Town of Constable, New York (the "Land", being more particularly described as a portion of tax parcel No. 57.00-2-28.5 and identified as "**Lot 4**" being in Subdivision 2 and 4 of Lot 24, Township 3, Great Tract No. One of Macomb's Purchase, situate in the Town of Constable, County of Franklin, State of New York, as recorded in Instrument No. 2021-5002554); (ii) the planning, design, construction and operation of a 4.53MWac/6.8MWdc PV community solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction"); and

WHEREAS, the Agency desires to amend the Project Documents to include the above described Project description to reflect the Project Scope Modifications; and

WHEREAS, all other provisions and terms of the Project Documents will remain the same without revision.

NOW, THEREFORE, in consideration of the covenants herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

Article I – Amendment to Project Documents

Section 1.1. The Project Documents are hereby amended to reflect the amended description of the "Project" as set forth below:

(i) the acquisition by the Agency of a leasehold interest in approximately **14456** acres of real property located at 1436 State Route 122 in the Town of Constable, New York (the "Land", being more particularly described as a portion of tax parcel No. 57.00-2-28.5 and identified as "**Lot 4**" being in Subdivision 2 and

4 of Lot 24, Township 3, Great Tract No. One of Macomb's Purchase, situate in the Town of Constable, County of Franklin, State of New York, as recorded in Instrument No. 2021-5002554); (ii) the planning, design, construction and operation of a 4.53MWac/6.8MWdc PV community solar electrical generation system, including panel foundations, inverters, transformers, interconnect wiring, utility connections, sitework, landscaping, fencing, security and related improvements (collectively, the "Improvements"); (iii) the acquisition of and installation in and around the Land and Improvements by the Company of machinery, equipment, fixtures and other items of tangible personal property (the "Equipment" and, collectively with, the Land and the Improvements, the "Facility"); and (iv) entering into a straight lease transaction (within the meaning of subdivision (15) of Section 854 of the Act), pursuant to which the Agency will retain a leasehold interest in the Facility for a period of time and sublease such interest in the Facility back to the Company (the "Straight Lease Transaction").

Section 1.2. **Schedule A** to the Project Documents, as applicable, is hereby deleted in its entirety and replaced with **Schedule A** attached hereto.

Section 1.3 All other provisions of the Project Documents shall remain in full force and effect.

Article II – Miscellaneous

Section 2.1. This Agreement may be executed in any number of counterparts each of which shall be deemed an original but which together shall constitute a single instrument.

Section 2.2. All notices, invoices, claims and other communications hereunder shall be in writing and shall be deemed to be duly given if personally delivered or mailed first class, postage prepaid, or by nationally-recognized overnight courier, as follows:

To the Agency: County of Franklin Industrial Development Agency
355 West Main Street, Suite 428
Malone, New York 12953
Attn: Chief Executive Officer

With a Copy to: Harris Beach PLLC
677 Broadway, Suite 1101
Albany, New York 12207
Attn: Justin S. Miller, Esq.

To the Company: OYA State Route 122 LLC
144 Front Street West
Toronto, Ontario, Canada M5J2L7
Attn: Manish Nayar, President

With a copy to: Hodgson Russ LLP
 The Guaranty Building
 140 Pearl Street, Suite 100
 Buffalo, New York 14202
 Attn: Daniel A. Spitzer, Esq.

or at such other address as any party may from time to time furnish to the other party by notice given in accordance with the provisions of this Section. All notices shall be deemed given when mailed or personally delivered in the manner provided in this Section.

Section 2.3. This Agreement shall be governed by, and all matters in connection herewith shall be construed and enforced in accordance with, the laws of the State of New York applicable to agreements executed and to be wholly performed therein and the parties hereto hereby agree to submit to the personal jurisdiction of the federal or state courts located in Franklin County, New York.

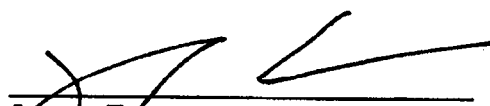
Section 2.4. Other than those revisions and amendments as set forth herein, the Project Documents remain otherwise unchanged and each of the parties hereto reaffirms their respective obligations thereunder.

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[Signature Page to Omnibus Amendment Agreement]

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

COUNTY OF FRANKLIN INDUSTRIAL
DEVELOPMENT AGENCY

By: 
Name: Jeremy Evans
Title: Chief Executive Officer

OYA STATE ROUTE 122 LLC, a
Delaware limited liability company
By: OYA Solar MM1, LLC, its sole member

By: _____
Name: Manish Nayar
Title: President

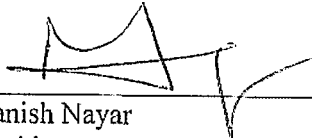
[Signature Page to Omnibus Amendment Agreement]

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

COUNTY OF FRANKLIN INDUSTRIAL
DEVELOPMENT AGENCY

By: _____
Name: Jeremy Evans
Title: Chief Executive Officer

OYA STATE ROUTE 122 LLC, a
Delaware limited liability company
By: OYA Solar MM1, LLC, its sole member

By:  _____
Name: Manish Nayar
Title: President

[Acknowledgment Page to Omnibus Amendment Agreement]

State of New York)
County of Franklin) ss.:

On the ___ day of July, 2021, before me, the undersigned, personally appeared JEREMY EVANS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

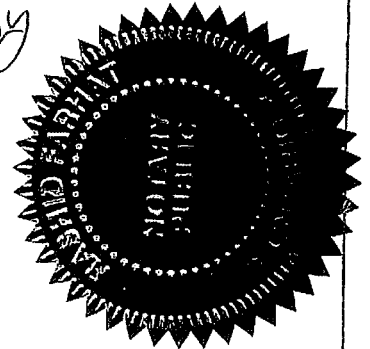
Notary Public

Province of Ontario)
Foreign Country of Canada) ss.:

On the 14th day of July, 2021, before me, the undersigned, personally appeared MANISH NAYAR personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

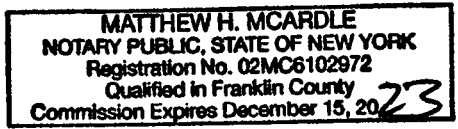
Rashid Farhat
Lawyer & Notary



[Acknowledgment Page to Omnibus Amendment Agreement]

State of New York)
County of Franklin) ss.:

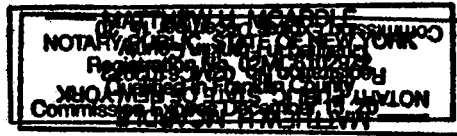
On the 15th day of July, 2021, before me, the undersigned, personally appeared JEREMY EVANS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.



Matthew H. McCardle

Notary Public

Province of Ontario)
Foreign Country of Canada) ss.:



On the __ day of July, 2021, before me, the undersigned, personally appeared MANISH NAYAR personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Schedule A

Lot 4, being in Subdivision 2 and 4 of Lot 24, Township 3, Great Tract No. One of Macomb's Purchase, situate in the Town of Constable, County of Franklin, State of New York, as recorded in Instrument No. 2021-5002554, intending to be the same lands as follows:

All that tract or parcel of land situate in the Town of Constable, County of Franklin, State of New York, being in Subdivision 2 and 4 of Lot 24, Township 3, Great Tract No. One of Macomb's Purchase bounded and described as follows:

Beginning at a point in the southerly highway boundary of the existing N.Y.S. Route 122 (width varies) at its intersection with the division line between the lands of OYA Land Holdings U.S. LLC (reputed owner) (Tax ID. No. 57.00-2-28.5) on the West and the lands of Randall A. Ooms and Elizabeth D. Ooms (reputed owners) (Tax ID. No. 57.00-2-23.13) on the East; thence

1. Southerly and Easterly along the last-mentioned division line the following two (2) courses and distances:
 - 1) South 05° 24' 42" East, a distance of 2210.15 feet to a point; thence
 - 2) North 85° 08' 54" East, a distance of 1167.56 feet to a point on the division line between the lands of OYA Land Holdings U.S. LLC (reputed owner) (Tax ID. No. 57.00-2-28.5) on the West and the lands of Randall A. Ooms and Elizabeth D. Ooms (reputed owners) (Tax ID. No. 57.00-2-19.1) on the East, said point also being the northeast corner Great Lot 24, Subdivision 4; thence
2. South 05° 16' 02" East, along the last-mentioned division line and along the easterly line of Great Lot 24, Subdivision 4, a distance of 1205.85 feet to a point on the division line between the lands of OYA Land Holdings U.S. LLC (reputed owner) (Tax ID. No. 57.00-2-28.5) on the North and the lands of Keith Paquin (reputed owner) (Tax ID. No. 57.00-2-24) on the South; thence
3. South 86° 14' 08" West along the last-mentioned division line and extending a distance of 1704.76 feet to a point; thence
4. Through the property of OYA Land Holdings U.S. LLC (reputed owner) (Tax ID. No. 57.00-2-28.5) the following six (6) courses and distances:
 - 1) North 03° 45' 52" West, a distance of 1368.15 feet to a point; thence
 - 2) North 21° 43' 34" East, a distance of 296.33 feet to a point; thence
 - 3) North 89° 59' 18" East, a distance of 175.00 feet to a point; thence
 - 4) North 00° 00' 42" West, a distance of 343.58 feet to a point; thence
 - 5) North 06° 41' 18" East, a distance of 160.00 feet to a point; thence
 - 6) North 05° 24' 42" West, a distance of 1320.00 feet to a point in the southerly highway boundary of the existing N.Y.S. Route 122 (width varies); thence

5. South $71^{\circ} 41' 41''$ East along said southerly highway boundary, a distance of 136.53 feet to the point of beginning, being 56.507 acres more or less.

