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Client/Matter No. 19306/22

VIA EMAIL ONLY

New Jersey Board of Public Utilities
c/o Board Secretary Aida Camacho
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**Re: Comments regarding Docket No. QO20020184, Solar Successor Program
Mount Olive Solar Farm – A Case Study**

Dear President Fiordaliso and Board Commissioners:

I write to you by way of comment to the NJBPU Staff's Successor Solar Program Straw Proposal released last week. In reading the Straw Proposal, I am not sure if Staff is aware of the extraordinary difficulties and costs associated with developing a "subsection (t)" (landfill) solar project. I am also not sure that Staff is aware of the considerable benefits of these projects relative to New Jersey's municipalities or the state as a whole. These benefits range from job creation, tax revenue, remediating contaminated properties, and the large-scale production of green energy. Certainly, Staff's Straw Proposal does not reflect an understanding of these issues and I think it is very important to highlight them for your consideration. I would like to tell you about the Mount Olive Solar Farm project, as a case study for your consideration, and also offer what I, and the developer of this project, feel are three concrete recommendations to include in any successor program to ensure that future brownfield and landfill redevelopment projects utilizing the Mount Olive model remain possible in New Jersey.

On January 7, 2021, the New Jersey Board of Public Utilities adopted an Order granting TREC eligibility to the 26.5 MW dc solar facility (the "*Facility*") proposed by Mount Olive Solar Farm, LLC ("*MOSF*") at the Combe Fill North Landfill in Mount Olive, Morris County, NJ. In moving the Order, Commissioner Holden stated that, "It's nice to see this sort of wrap up Combe North ... For those of us who were elected officials in Morris County, we know what a headache Combe Fill North has been." She noted, "It's nice to see something useful being done with this land." We could not agree more.

The Combe Fill North landfill serviced Mount Olive Township as a sanitary municipal landfill from at least 1966 to 1978. During that time, the landfill accepted domestic and industrial wastes and dry sewage sludge. In 1978, the site was purchased by the Combe Fill Corporation (“CFC”) and, in 1979, groundwater beneath the site and the air emitting from the site were found to be contaminated with volatile organic compounds. It was determined then that certain private residential wells in the surrounding residential community were also contaminated. The landfill ceased operations in 1981.

The landfill was not properly closed when CFC went bankrupt and abandoned the property in the early 1980s. In 1982, due to the aforementioned contamination, the property was placed on the USEPA’s National Priorities List of Superfund sites. In 1983, the NJDEP entered into a Cooperative Agreement with USEPA that governed the closure of the landfill and subsequent remediation of the Property. In 1986, the USEPA and the NJDEP selected a containment remedy for the site. The remedial action was completed in 1991 and long-term groundwater and air monitoring has been conducted since to ensure the effectiveness of the remedy. After years of ongoing remediation, the landfill was removed from the National Priorities List in 2004. Even still, the property, along with a series of institutional controls, remains under NJDEP oversight. All told, the State of New Jersey, through the NJDEP, expended nearly \$20 million in remediation costs to bring the site to its current condition.

In 1990, the Township purchased a tax sale certificate applicable to the Combe Fill North landfill site. Since the property had been abandoned by CFC, the taxes on the property continued to accrue, unpaid, to the Township. As of December 1, 2019, the amount of past due taxes totaled nearly \$2.3 million.

In 2019, the Township, in accordance with the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et. seq. (“LRHL”), adopted the Combe Fill North Redevelopment Plan “with the intent of developing the site as a Solar Photovoltaic Energy Facility.” In 2020, the Township designated Mount Olive Solar Farm, LLC (“MOSF”) as the “redeveloper” of the site, also in accordance with the LRHL. The Township and MOSF entered into a purchase and sale and redevelopment agreement whereby MOSF, through a related entity known as Gold Mine Road Solar, LLC (“GMRS”) would purchase the municipally-owned tax sale certificates from the Township, foreclose on the landfill property, and undertake the redevelopment of the property with the Facility.

GMRS is now in the process of finalizing the tax sale foreclosure. At the same time, MOSF has secured off-site easements for the Facility’s interconnection. MOSF has also obtained municipal site plan approval and a host of outside agency approvals necessary to begin construction.. Thanks to the Board’s Order, the project is TREC-eligible and construction is set to begin in the summer of 2021. Once the Facility is complete, it will be the largest solar array ever constructed on a former landfill in North America. This is truly a monumental success story of which the developer, the Township, and the State of New Jersey should be proud.

This success story is possible for one reason – the certainty and stability of the TREC.

To undertake this development, which meant taking on one of the most challenging sites in the country, let alone New Jersey, the developer required the certainty and stability of a solar tariff with a fixed price and fixed duration. Before it had even submitted an application – to the Township, the NJBPU, or the NJDEP – the developer invested over \$1 million to secure the rights to purchase the Township’s municipally-owned tax sale certificates. Once that was done, the developer entered into an Administrative Consent Order with the NJDEP that will require the developer, or its successor-in-interest, to pay the NJDEP approximately \$100,000 per year for the life of the facility to refund the NJDEP for past remediation costs. Once the Facility achieves commercial operation, the developer will be required to pay the Township, in full, for all past due taxes accrued for the property – as mentioned above, nearly \$2.3 million. This is in addition to the well over \$1 million of soft costs (legal, environmental, engineering, design, permitting, etc.) expended by the developer to bring the Facility to the point of construction ready.

No developer would take on this challenging and this expensive of a project without the certainty and stability of a fixed-priced, fixed-duration solar tariff. Without certainty and stability, there is no way for a developer to forecast values for a project like this and no developer would willingly take on the challenge. The Township would therefore not be able to complete the project envisioned by its Redevelopment Plan.

With this in mind, we were disheartened to see the NJBPU Staff’s Solar Successor Program Straw Proposal. The proposal seeks to create a competitive solicitation model for all grid-supply projects over 2 MW. If this proposal is adopted, injecting uncertainty and instability into the already complex and expensive equation for projects like this, it will kill the prospect any future success stories like Combe North.

This is most unfortunate. The Mount Olive project highlights all the reasons that developing utility-scale projects on formerly contaminated landfills, brownfields, and historic fill sites in New Jersey is good for the state:

- (1) The state is alleviated from the ongoing burden of maintaining the landfill cap. In fact, in the case of Mount Olive, the developer will bear that responsibility in connection with its ACO with NJDEP, saving the state hundreds of thousands (if not millions) of dollars in hard costs and hundreds of labor hours over the life of the facility.
- (2) The state is refunded past remediation costs. As detailed above, the developer is required to make annual contributions to the NJDEP to refund past costs incurred.
- (3) The local municipality does not have to assume landfill liability. Here, the developer is taking title to the landfill property and, by virtue of the tax sale foreclosure, the Township is never in the chain of title.
- (4) The local municipality is refunded for past due taxes. As noted above, the developer has committed to repaying some \$2.3 million in past due taxes and the

developer is required to maintain the taxes on the property current during the period of development.

- (5) The project creates jobs. With a facility the size of Mount Olive, it can be anticipated that some 200+ construction jobs will be created. A number of permanent jobs are likely to be associated with the ongoing operation and oversight of the Facility.
- (6) The project boosts the local economy. Not only will the contractors use local shops and services during the period of construction, but the municipality will turn an unproductive, non-tax-paying site into a productive tax revenue producer for years to come.
- (7) The project will produce green energy. In Mount Olive, at 26.5 MW dc, the Facility will produce enough green energy to power approximately 5,300 homes, or nearly one half of the Township.

We believe these are important benefits – benefits that should not be ignored in favor of a competitive bid solar tariff system. In fact, the development team that tackled Mount Olive has since taken this model and employed it at the Southern Ocean Landfill in Ocean Township, Ocean County; the Hamms Landfill in Lafayette Township, Sussex County; the Big Horn Landfill in Shamong Township, Burlington County; and the Burlington Environmental Management Services Landfill in Southampton Township, Burlington County all of which are currently in later stages of development. The team is also actively working on several other landfills across the state, hoping to bring these same benefits to a number of municipalities with abandoned, Township-owned, or improperly closed sanitary landfills. Many of these landfills are located in the state’s Pinelands region, which brings its own challenges associated with closing previously uncapped landfills subject to Pinelands more stringent (and more costly) landfill closure regulations. Nevertheless, because of the certainty and stability of the TREC, the developer is willing to take on these projects, resulting in all of the benefits outlined above for the host municipalities.

It is worth mentioning that, in her statement in support of the Mount Olive Facility, Commissioner Holden stated that she was excited to see what would happen with the Combe Fill South Landfill in Washington and Chester Townships, Morris County. I can report to you that the developer of the Mount Olive facility has also been designated as the “redeveloper” of the Combe Fill South Landfill by the Township of Washington and is about to be so designated by the Township of Chester. In fact, a “subsection (t)” application for the Washington portion of that site – submitted by the same development team that brought about Mount Olive – has been pending with the NJBPU for some time. The Combe South redevelopment will be another large-scale, multi-million dollar, rivaled in size, scope, and complexity only by North Combe.

Keep in mind that in NJDEP’s 2014 database, there are a total of 853 landfills in New Jersey that are known to NJDEP. Of these, there are 716 known landfills that have not been

properly closed. The average size of these landfills is 27 acres. This represents approximately 200,000 acres of land in this state that would be ideal for solar redevelopment. A conservative estimate to close these unclosed landfills is \$435,000 per acre (hard costs only, without the exorbitant soft costs factored in). At that rate, to close all of these known, unclosed landfills would cost the state and its municipalities approximately \$8.7 *billion* in hard costs. This is not a number that we are pulling out of thin air. This is based on our experience in dealing with many landfill properties, engaging the very best environmental consultants with the broadest breadth of knowledge in these matters, and seriously studying the costs involved in undertaking these projects. We do not believe that the state or any local municipalities will want to take on this cost. In our program, the developer bears this cost, but only when supported by a fixed-rate, fixed-duration tariff.

In this light, we view the Mount Olive program, which is now being employed statewide, as a win-win for all involved and a public-private partnership in the absolute truest sense envisioned by the Local Redevelopment and Housing Law. The TREC, as constituted, provides a funding source that allows not only for the development of large-format, utility-scale projects here in New Jersey – projects that are capable of truly taking a bit out of the state’s renewable energy goals – but it also provides municipalities with the opportunity to have legacy, unclosed, or other problematic landfills properly closed, capped, and maintained without looking to the state or the NJDEP for funding (which is sorely lacking). By utilizing the current solar tariff program, and the Local Redevelopment and Housing Law, the developer bears all costs involved, does not ask the state or the local municipalities for any form of tax abatement or exemption (even though it is permitted under the LRHL), and truly seeks to maximize outcomes for each and every public and private stakeholder. These projects are about more than traditional real estate development – they are about boosting local economies, creating jobs, producing green energy here in the Garden State, and transforming the worst and most problematic properties in the state into productive assets for local municipalities. I cannot stress enough that these projects are possible only in the face of a certain and stable solar tariff. These projects do not see the light of day – so to speak – under Staff’s Straw Proposal.

With all of this in mind, when implementing a successor solar program, I implore you to consider these three key points:

- (1) Solar Act “subsection (t)” projects need their own separate program with a fixed rate and fixed tariff. Certainty and stability are key. Solar is the perfect land use for many landfills, brownfields, or historic fill sites, where traditional forms of development are either discouraged or prohibited. If the NJBPU wants to encourage solar development on these sites, it is crucial that a fixed rate and fixed duration be utilized. These projects are inherently costly and complex. Guessing on the economics would kill these projects outright. Going into development, a developer must know the applicable solar tariff and not be made to guess or hope to win a bid submission. If developers are not able to take on these projects because of inherent instability and uncertainty in the tariff structure, municipalities will lose out on the opportunity to close legacy landfills and boost

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their local economies by generating tax revenue from otherwise unproductive and fallow properties.

- (2) Utility scale solar benefits from certainty and stability. Staff's Straw Proposal correctly cited the benefits of a fixed rate and fixed tenor (stability, certainty) in discussing net-metered projects 2MW and under. However, the benefits of fixed rate and fixed tenor are actually more important to larger utility scale projects. Net-metered projects, particularly rooftop projects, are inherently easier and faster to install due to the expedited permitting process as well as no PJM intervention. Utility-scale projects must work through multiple agencies and are obligated to work with PJM (an increasingly difficult proposition). Simply put, the costs associated with "subsection (t)" projects are astronomically higher than net-metered projects and, these projects do not benefit from the added subsidy of selling at retail rates. These projects need more encouragement from the state's solar program, not less.
- (3) Solar Act "subsection (t)" projects currently in development need a fair and orderly transition to any successor program. Given that significant investments have been made under the current TREC scheme, any "subsection (t)" projects currently in development should be allowed to submit applications at least until the end of calendar year 2021.

I hope that this has been helpful. For your reference, I have enclosed MOSF's agreement with the Township of Mount Olive, the ACO with the NJDEP, and Township's Redevelopment Plan for the Combe North site. I must reiterate that the same development team that is actively bringing the Mount Olive project to fruition is poised to replicate the success story that is the Mount Olive Solar Farm at other locales across the state. It would be a shame, indeed, to inhibit future successes by adopting a Straw Proposal that is not founded in the complex reality that these projects must face.

I thank you for your time and attention to this matter. Should there be any remaining questions, please do not hesitate to contact me. Thank you again.

Very truly yours,



STEVEN P. GOUIN

SPG/smf

Enclosures

cc: CEP Renewables, LLC (via email)
Abe Silverman, Esq. (via email)
Mark S. Bellin, Esq. (via email)

Docs #5016537-v1



COMBE FILL NORTH REDEVELOPMENT PLAN

BLOCK 4100, LOT 10



SEPTEMBER 12, 2019

Prepared by:

Charles T. McGroarty, PP/AICP
33LI00414500
Original report signed in accordance with N.J.S.A. 45:14A-12

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1.0 INTRODUCTION

In order to facilitate the conversion of the former landfill known as Combe Fill North to a productive use, the Mount Olive Township Council [Resolution dated March 19, 2019] directed the Township's Planning Board to examine the potential to deem the 102 acre parcel as "an area in need of redevelopment" to establish a Non-Condensation Redevelopment Area. The Planning Board did so and issued a report dated June 20, 2019 wherein it was determined that the former landfill, situate on Lot 10 in Tax Block 4100 met the statutory criteria for such a determination. The Township Council received and accepted the Planning Board's findings and, as set forth in a second Resolution adopted on July 23, 2019 the Township Council requested the Planning Board prepare a Redevelopment Plan for the former landfill site and submit same to the governing body for consideration. This Redevelopment Plan has been prepared in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-7 pursuant to that request.

2.0 COMBE FILL NORTH

The former landfill occupies Lot 10 in Tax Block 4100 and consists of 101.2650 acres to the sideline of Gold Mine Road and 102.5366 acres to the centerline of Gold Mine Road according to a survey dated February 14, 2007 of Lot 10, Block 4100 prepared by Michael C. Nolan, P.L.S. of the Chester, Ploussas, Lisowsky Partnership, LLP [Appendix A] which accompanied a conceptual redevelopment plan that did not come to fruition. The area that constituted the actual landfill comprises approximately 65 acres within the larger parcel. Lot 10 has approximately 1,693 feet of frontage along the northerly side of Gold Mine Road and is situate approximately 0.4 mile south of Interstate 80, 0.5 miles east of Route 46, and 0.6 miles west of Rt. 206 (Exhibit 1).

For almost 50 years the landfill which eventually became known as Combe Fill North has been a part of the Township's history. Considered an essential asset to serve the trash disposal needs for a growing population in Mount Olive when first approved in the late 1960's, by 1981 after approval to expand was denied it ceased to operate. Its closure however, did not eliminate the lingering effects of odors and adverse impacts to ground water which took a substantial and costly effort to remedy through the proper closure of the facility.

On October 5, 1965, Charles A. Wolfe, owner of the property known as Wolfe Farms secured a Special Exception Use¹ variance from the Zoning Board of Adjustment (ZBA) to utilize approximately 10 acres of the Wolfe Farm located along Gold Mine Road for a sanitary landfill. At that time the property in question was located in the ‘A’ zone district. On May 12, 1966 the Planning Board concurred with the Board of Adjustment’s approval in granting the relief to permit this use. The approval limited the use of the landfill to Mount Olive Township and the residents thereof.

A subsequent use variance was granted by the ZBA to Morris County Land Fill Company to permit an expansion of the landfill to an area comprising 86.931 acres. The Board’s Resolution, memorialized on March 24, 1969 stated, in part:

There is a dire need for a sanitary landfill operation in Mount Olive to satisfy the needs of its ever expanding population. The Board takes judicial notice of the increase in population of the Township and the many subdivisions that have been approved by the Planning Board. There are at present at least 4,000 lots already approved by the Planning Board. A Sanitary Landfill operation is required in the Municipality to provide proper garbage disposal for the residents of Mount Olive.²

The history continues as detailed in a 1989 publication entitled Fact Sheet – Combe Fill North Landfill Superfund Site – Mt. Olive Township – Morris County, by the New Jersey Department of Environmental Protection (NJDEP):

From 1969 to 1978 the landfill was operated by Morris County Landfill Incorporated. In September 1978, ownership was transferred to the Combe Fill Corporation which operated the landfill until January 1981 when the New Jersey Department of Environmental Protection (NJDEP) denied an expansion request and operations ceased.³

¹ *Special Exception Use – A use in one (1) or more zones for which the Board of Adjustment may grant a permit, pursuant to the provisions of § 91-150.* Source: 1972 Mount Olive Zoning Ordinance Chapter 91, § 91-10. This process was replaced with the enactment of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) in 1975.

² Board of Adjustment Resolution, March 24, 1969, page 2

³ Source: Fact Sheet – Combe Fill North Landfill Superfund Site – Mt. Olive Township – Morris County, dated November 1989, New Jersey Department of Environmental Protection, State of New Jersey.

The Fact Sheet went on to note that Combe Fill Corporation filed for bankruptcy in September 1981 followed by several Notices of Prosecution issued by the New Jersey Department of Environmental Protection for “...*improper intermediate landfill cover which resulted in windblown debris on and off site, contact of solid waste with ground water, and inadequate leachate control.*” The landfill was ultimately placed on the United States Environmental Protection Agency’s National Priorities List of Superfund sites in 1982.

The Fact Sheet further stated:

On November 21, 1983, NJDEP signed a Cooperative Agreement with the United States Environmental Protection Agency (USEPA) for a Remedial Investigation/Feasibility Study (RI/FS) at the site. In August 1984, NJDEP awarded a contract to perform the RI/FS to Ebasco Services, Incorporated of New York City. The cost of this study was approximately \$720,000. A public meeting to present and discuss the results of the RI/FS and the recommended alternative was held by NJDEP on July 1, 1986. The public comment period was June 12 through July 16, 1986. A Record of Decision (ROD) signed by USEPA on September 30, 1986, included responses to public comments and documented the selected long-term solution for the Combe Fill North Landfill at a cost of approximately \$12 million.

Remedial Action/Construction Phase

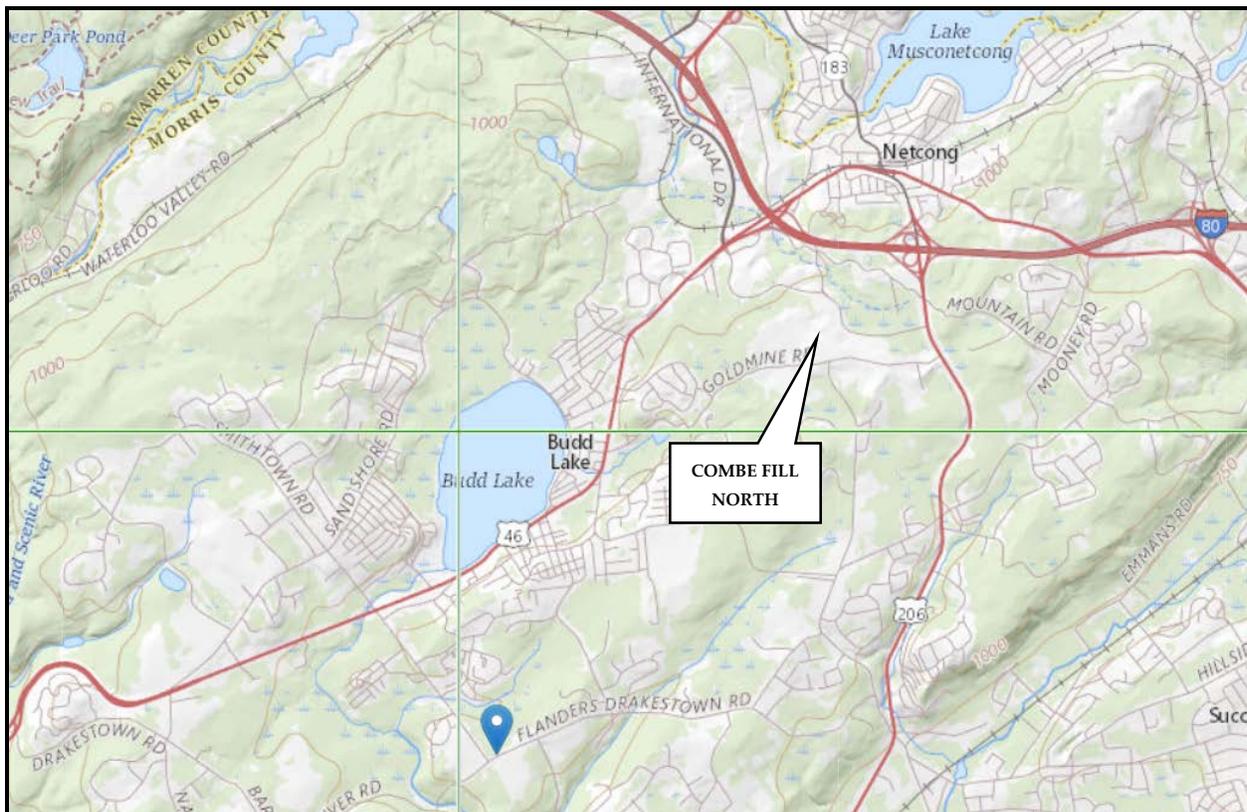
On October 27, 1989, NJDEP awarded a \$14.8 million cleanup contract to Conti Construction Company of South Plainfield to implement the remedial activities outlined in the ROD for the Combe Fill North site. The work encompassed the following activities under NJDEP supervision:

- Grading and compacting the 65-acre waste disposal area;
- Covering and capping the landfill with one foot of clay, one foot of sand, one and one-half foot of fill material, six inches of topsoil and vegetation;
- Installing a drainage and methane venting system;
- Construction of a security fence around the perimeter of the site; and
- Implementation of a quarterly ground water and surface water monitoring program.

On March 29, 1990 Mount Olive Township acquired the tax lien for Lot 10 which it continues to hold to the present day. Commencing in 1991 NJDEP took responsibility for conducting

maintenance at the site which encompasses “...inspecting of the cap, swales, drainage channels, roadway, and fence line, mowing and weed whacking the landfill cap and fence line, and performing sampling and analysis for a long-term monitoring program of groundwater and air.” In addition, groundwater sampling is done on a yearly basis from 16 monitoring wells comprising 2 upgradient and 11 downgradient perimeter wells and three wells within the cap.⁴ In late March 1993 the landfill capping construction was completed and 11 years later, on May 19, 2004 EPA removed Combe Fill North from National Priorities List.

EXHIBIT 1



3.0 REDEVELOPMENT PLAN

This Redevelopment Plan establishes the former landfill as an overlay zone within the C-LI zone district with the intent of developing the site as a Solar Photovoltaic Energy Facility. The overlay zone will encompass the entire 102 acre tract (Exhibit 2). It is recognized that such facilities are

⁴ Five-Year Review Report for Combe Fill North Landfill Superfund Site Mount Olive Township, New Jersey, prepared by U.S. Environmental Protection Agency, Region 2, New York, NY, dated September 12, 2014, page 10.

permitted “as of right” in the Municipal Land Use Law (MLUL) on land comprising 20 or more contiguous acres in an industrial zone and more particularly on any landfill, as follows:

40:55D-66.11. Wind and solar facilities permitted in industrial zones. A renewable energy facility on a parcel or parcels of land comprising 20 or more contiguous acres that are owned by the same person or entity shall be a permitted use within every industrial district of a municipality. For the purposes of this section: “renewable energy facility” means a facility that engages in the production of electric energy from solar technologies, photovoltaic technologies, or wind energy.

40:55D-66.16. Solar, photovoltaic energy facility, structure, certain, permitted use within every municipality. a. Notwithstanding any law, ordinance, rule or regulation to the contrary, a solar or photovoltaic energy facility or structure constructed and operated on the site of any landfill or closed resource extraction operation, shall be a permitted use within every municipality. b. Notwithstanding any law, ordinance, rule or regulation to the contrary, a wind energy generation facility or structure constructed and operated on the site of any landfill or closed resource extraction operation, shall be a permitted use within every municipality outside the pinelands area as defined pursuant to section 3 of P.L.1979, c.111 (C.13:18A-3). The Department of Environmental Protection may adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as necessary to effectuate the purposes of this subsection.

EXHIBIT 2



There are no residential properties, affordable units or otherwise, effected by this Redevelopment Plan hence no relocation is required.

4.0 NEW OVERLY ZONE

The Redevelopment Plan will be depicted as an overlay zone applicable exclusively to Lot 10 in Block 4100 on the Township's Zoning Map and the C-LI Zone District regulations shall be amended to reflect this designation with clear and specific language that a development of a Solar Photovoltaic Energy Facility (SPEF) within the Redevelopment Plan area shall be a permitted principal use and that the lot area and bulk regulations of the C-LI zone do not apply. Accessory uses shall include such buildings and/or structures subordinate and incidental to the functions of the SPEF including, but not limited to, connections to the electric grid, conduit, junction boxes, and similar equipment.

Site plan approval will be required by the Planning Board. There shall be no minimum threshold imposed as to the number of solar panels nor any maximum limit for same. Due to the unique challenges in developing the former landfill no specific requirements regarding internal setbacks between panels/foundations and other bulk standards are recommended, however; a minimum setback of fifty feet (50 ft.) is recommended for the frontage along Gold Mine Road and the ITC South retail complex.

It is anticipated that a solar array field would be concentrated on the more level areas of the capped facility thus avoiding difficulties associated with perimeter slopes (Exhibit 3) and spaced appropriately to avoid disturbance to the ventilation tubes in place (Exhibit 4). With regard to lot coverage, solar panels but not the actual structural foundations, are excluded from such calculations pursuant to N.J.S.A. 40:55D-38.1, which reads as follows:

Solar panels not included in certain calculations relative to approval of subdivisions, site plans. An ordinance requiring approval by the planning board of either subdivisions or site plans, or both, shall not include solar panels in any calculation of impervious surface or impervious cover. As used in this section, “solar panel” means an elevated panel or plate, or a canopy or array thereof, that captures and converts solar radiation to produce power, and includes flat plate, focusing solar collectors, or photovoltaic solar cells and excludes the base or foundation of the panel, plate, canopy, or array.

In order to provide flexibility and maximum development potential for this unique property, no impervious coverage limits are proposed particularly given the likelihood that the majority of foundations may be a nonpermanent type of structure such as a ballasted system so as to avoid penetrating the closure cap. This is the preferred mechanism in such circumstances as described in an US EPA Best Practices manual, as follows:

Ballasted systems are the most common anchoring method for PV systems on landfills. A ballasted system is typically composed of a flat tray or large concrete block that is placed on the landfill cap, with the array support structure attached to the tray or concrete block. In tray-based systems, the ballast material holds the PV system

down and protects it from wind uplift and sliding. The advantages of a ballasted anchor system are that: the system (i) does not penetrate the landfill cap; (ii) requires minimal site prep or disturbance to the vegetative cover; (iii) can be installed quickly; and (iv) can provide good structural support for the PV array. The key factor in designing a ballasted system is the selection of the proper weight of the ballast material to balance the dead weight loading requirements of the landfill cap while protecting against wind uplift and horizontal sliding. As ballasted anchoring systems become more commonplace for PV systems, an increasing number of manufacturers are offering pre-packaged ballast and racking solutions that are designed for site-specific conditions. Ballasted systems may be good candidates for flat landfill surfaces, but become more difficult to install as the slope of the landfill surface increases.⁵

EXHIBIT 3



⁵ [Best Practices for Siting Solar Photovoltaics on Municipal Solid Waste Landfills](#), United States Environmental Protection Agency, Technical Report NREL/TP-7A30-52615, February 2013, page 41

EXHIBIT 4



A landscaped buffer should be provided along Gold Mine Road (Exhibit 5) with year-round screening at an appropriate height and depth to be determined at time of site plan review and subject to Planning Board approval to offer an effective screen from the public road but designed to accommodate the solar exposure needs of the facility. No off-street parking requirements will be imposed as the anticipated limited vehicular traffic to the site can be accommodated with on-site access lanes. All signage shall comply with the C-LI standards. The site plan review process and any Planning Board approval should clearly assign all requisite monitoring and, if necessary, future remediation actions to the appropriate party. The approval process should likewise address the extent to which, if at all, the NJ DEP will remain involved.

EXHIBIT 5



5.0 RELATION TO LOCAL OBJECTIVES

5.1 Mount Olive Master Plan

The former landfill was included within the new C-LI Commercial – Light Industrial zone district introduced in the 1997 Land Use Plan Element. The new C-LI zone was described as follows:

This is a new zoning district located between Routes 46 and 206 in the vicinity of Route 80. The purpose of this district is to provide the potential for new development which could include virtually the full range of nonresidential uses. Critical to the success of this new district is the construction of a collector road with access to both Route 46 and Route 206. This district replaces areas which are now zoned Light Industrial, Office Research, and C-1 Commercial. Retail development within this district should have fairly large minimum tract sizes for each subdivision or site plan which would apply to each area covered by a development application, although individual uses which are a part of a larger planned development could have relatively small lot sizes to accommodate leasing or financing requirements.⁶

⁶ Township of Mount Olive Draft Land Use Plan, November 1996, revised January 16, 1997, page 11.

The Township 2003 Master Plan Land Use Map includes Combe Fill in the Commercial/Light Industrial land use category described as follows:

Retail uses are also permitted in the Commercial/Light Industrial District located with access to both Route 46 and Route 206 via International Drive South. The intent of this district is to allow for a wide range of industrial and regional commercial uses in an area of the community that has direct highway access, central water and sanitary sewer availability in proximity to population concentrations. This district permits a

5.2 Municipal Zoning

Lot 10 is in the Township's C-LI (Commercial-Light Industrial) zone district (Exhibit 6). The C-LI permits the following principal, accessory and conditional uses:

Permitted principal uses

1. Offices and office buildings.
2. Research laboratories or other experimental testing or research establishments, such as product development, but not to include the processing of raw materials, except as incidental to the basic research purpose.
3. Warehousing, shipping and receiving.
4. The manufacturing, finishing and assembly of products.
5. Retail sales of goods and services.
6. Professional and medical offices.
7. Veterinary clinics.
8. Restaurants, bars and nightclubs.
9. Fast-food restaurants and convenience markets, if part of a retail center containing at least 200,000 square feet.
10. Banks and similar financial institutions.
11. Health clubs.
12. Theaters and entertainment centers of a nonnuisance character.
13. Recreational facilities, bowling alleys, gymnasiums, tennis courts and pools.
14. Hotels and motels.
15. Clubs, lodges and houses of worship.
16. Medical clinics.

17. Utilities, but not including radio and communications towers, pump stations and water storage facilities.
18. Public uses.
19. Antennas for wireless telecommunications services.

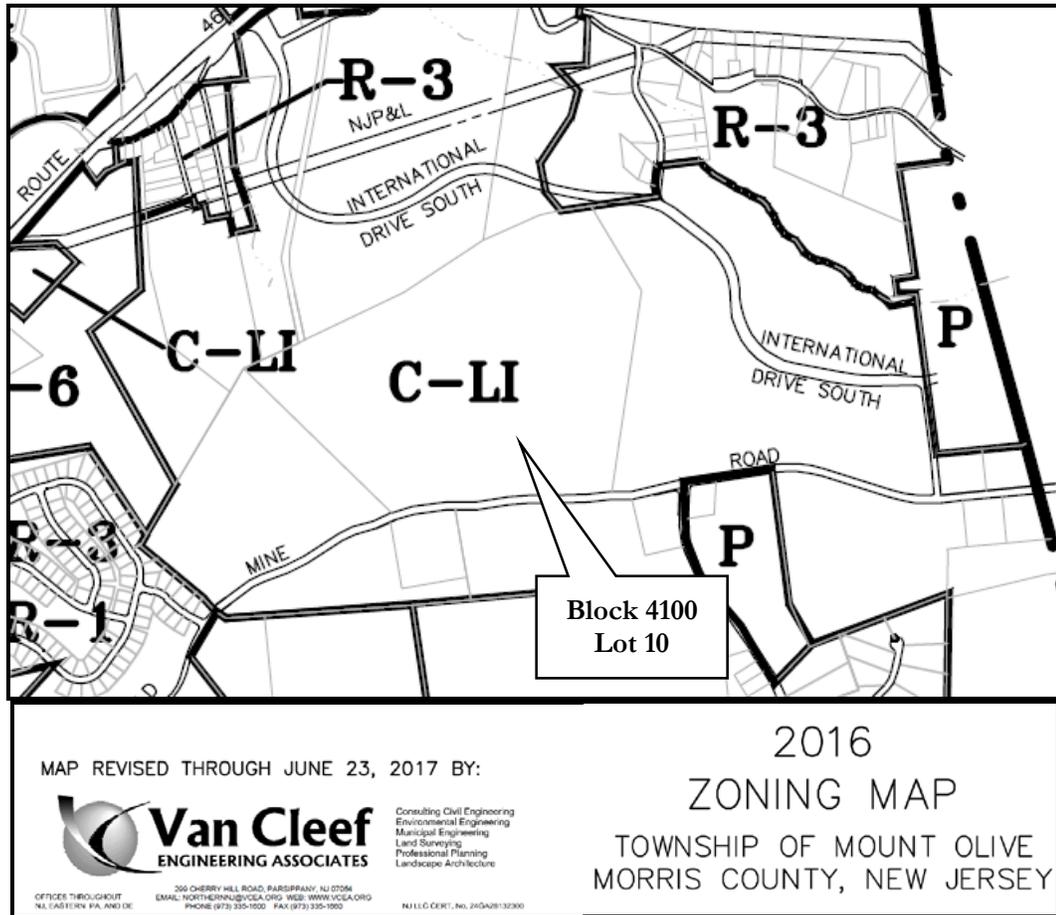
Permitted accessory uses

1. Parking areas, loading areas, trash and garbage collection areas.
2. Outside storage areas, provided that their location conforms to the setbacks for principal buildings and that they comply with the buffering section of this chapter, § 550-36.
3. Other uses customarily associated with the above uses, provided that such uses are subordinate to the principal use, do not change the character of the principal use and serve only the principal use.
4. Outdoor dining, subject to the design and performance standards set forth in § 550-77.1.

Conditional uses

1. Service stations and auto repair, but not including body shops.
2. Amusement arcades.
3. Radio and communications towers.

EXHIBIT 6



6.0 PLAN CONSISTENCY REVIEW

6.1 Morris County

The County is in the process of preparing a new, updated Land Use Plan. There is no conflict with the goals set forth in the existing 1975 plan which are as follows:

Morris County Master Plan – Future Land Use Element, April 1975

Goals

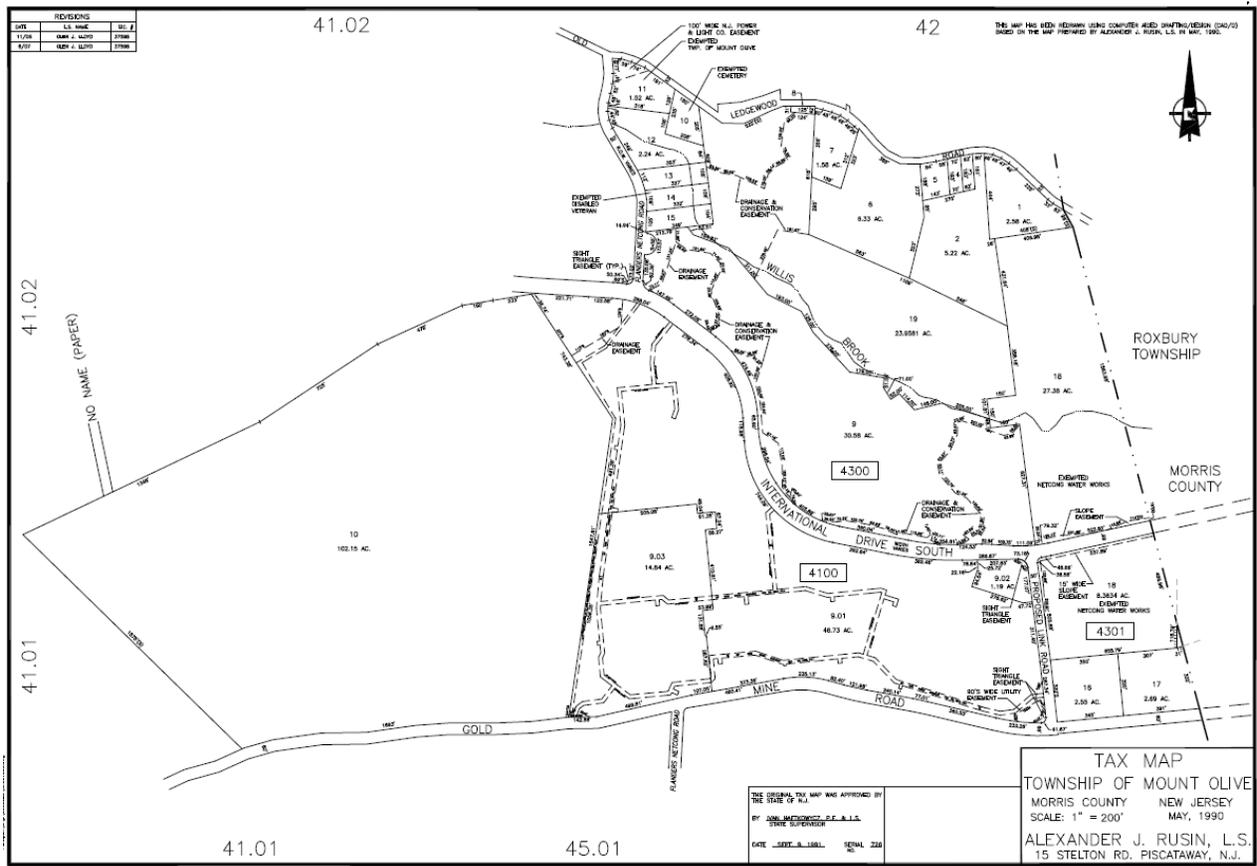
- Support the establishment of an equitable tax base
- Balanced and diversified economic growth, coordinated with transportation, utilities, and environmental limitations.
- Increased suitability of municipal services to land use; adequate capacity of both physical and social support systems.
- Increased scope of public transportation.
- Maintenance of “human” standards in housing, employment, income and education.
- Provision for a variety of individual choices in life styles and living spaces.
- Preservation of adequate open space, unique natural features and historical assets; provision for sufficient recreational facilities.

- Maintenance at both the local and County levels of a physical and social sense of community.

6.2 Roxbury Township

The municipal boundary with Roxbury Township is slightly more than one-half mile to the east of the former landfill as seen on Mount Olive Tax Map 43 (Exhibit 7). Along that portion of Gold Mine Road and Route 206 within Roxbury Township, the B-1/A Limited Business and OR-5 Office Research zone districts are in place which poses no conflict with the conversion of the former landfill to a solar array facility. An analysis of the Roxbury Township's Land Use Plan Element Update dated September 16, 2009 and the 2017 Periodic Reexamination Report of the Master Plan and Development Regulations of the Township of Roxbury, adopted August 2, 2017 finds no conflict between the proposed overlay zone for a Solar Photovoltaic Energy Facility with the goals and objectives for commercial and office uses set forth in the aforementioned Roxbury plan documents.

EXHIBIT 7



6.3 New Jersey Highlands

Combe Fill is located within the Highlands Planning Area and thus is not subject to Highlands Council jurisdiction nor NJDEP regulations (N.J.A.C. 7-38) as is the case for lands within the Preservation Area. Mount Olive Township elected not to “opt in” which would have extended such controls to the Planning Area as part of its Highlands Plan Conformance process. Notwithstanding its Planning Area classification the Township successfully petitioned the N.J. Highlands Council in early 2009 to revise the Land Use Capability Zone Map contained in the 2008 Highlands Regional Master Plan to change the former landfill from the land use category of “*Existing Community – Environmentally Constrained*” to “*Existing Community*” in order to facilitate inclusion of the site within the Musconetcong Sewerage Authority’s service area thus enhancing its potential for redevelopment.

The request for this change emphasized consistency with the Regional Master Plan’s policies regarding brownfield redevelopment as set forth in the Highlands Regional Master Plan 2008, Chapter 4 Goals, Policies, Objectives and Programs, Part 6 Future Land Use, Subpart D Redevelopment, which are as follows:

Policy 6J2: To encourage redevelopment in the ECZ in the Planning Area of brownfields, grayfields and other previously developed areas that have adequate water, wastewater, transportation capacity, and are appropriate for increased land use intensity or conversion to greenfields, as approved through Plan Conformance or the Highlands Redevelopment Area Designation process.

Policy 6M1: Encourage and support the restoration and redevelopment or open space use of contaminated areas.

Policy 6K1: To promote redevelopment of brownfields, grayfields, and other previously developed areas in a manner consistent with the goals, and requirements of the Plan.⁷

⁷ Correspondence to Eileen Swan, Executive Director New Jersey Highlands Council from Chuck McGroarty, PP, AICP, dated January 15, 2008.

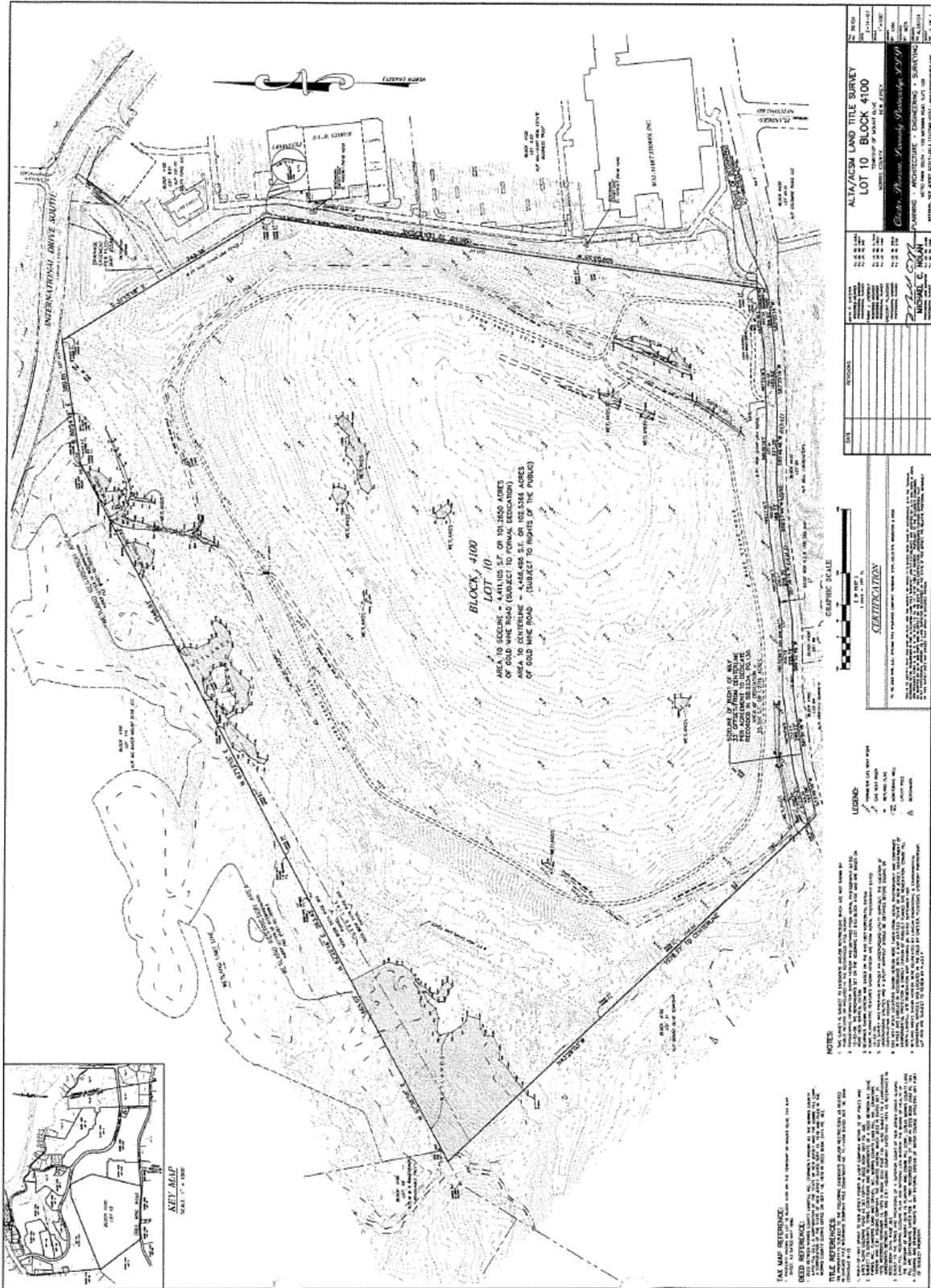
6.4 State Development and Redevelopment Plan

The former landfill is situated in Planning Area 5 Environmentally Sensitive area as is the majority of the Township. The transformation of the former landfill to a solar energy generating facility is entirely consistent with the Statewide Goals, Strategies and Policies set forth in the State Development & Redevelopment Plan, specifically Goal #14 (Waste Management, Recycling and Brownfields) of the Statewide Goals, Strategies and Policies section, Policy 8 (Priority for Community Brownfield Plans), Policy 9 (Redevelopment of Brownfield⁸ Sites), Policy 10 (Coordinated Planning for Brownfield Sites), and Policy 11 (Brownfields Reuse).⁹

⁸ State Development and Redevelopment Plan, Glossary, page 318: *Brownfields means any former or current commercial or industrial site that is currently vacant or underutilized and on which there has been, or there is suspected to have been, a discharge of contaminants.*

⁹ State Development and Redevelopment Plan, page 159.

APPENDIX A



GIORDANO, HALLERAN & CIESLA, P.C.

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
WWW.GHCLAW.COM

STEVEN P. GOUIN, ESQ.
SHAREHOLDER
ALSO ADMITTED TO PRACTICE IN NY
SGOUIN@GHCLAW.COM
DIRECT DIAL: (732) 219-5498

Please Reply To:
125 HALF MILE ROAD
SUITE 300
RED BANK, NJ 07701
(732) 741-3900
FAX: (732) 224-6599

January 23, 2020

Client/Matter No. 19306-22

**VIA FEDERAL EXPRESS, EMAIL,
AND FACSIMILE**

Township of Mount Olive
204 Flanders-Drakestown Road
P.O. Box 450
Budd Lake, NJ 07828
ATTN: Rose Barsanti, CTC
Email: rbarsanti@mtolivetwp.org
Facsimile: (973) 691-9257

Fred Semrau, Esq.
Dorsey & Semrau
714 Main Street
P.O. Box 228
Boonton, NJ 07005
Email: fsemrau@dorseysemrau.com
Facsimile: (973) 334-3408

New Jersey Dep't of Environmental Protection
Mail Code: 401-05Q
401 East State Street
P.O. Box 420
Trenton, NJ 08625
ATTN: Ed Putnam
Email: Ed.Putnam@dep.nj.gov

Re: Agreement of Sale dated December 4, 2019 between the Township of Mount Olive (the "Township"), as seller and Mt. Olive Combe Development, LLC ("MOCD"), as purchaser (collectively, the "Agreement")
REQUEST TO COMPLETE ASSIGNMENT OF TAX CERTIFICATE

Dear Ms. Barsanti, Mr. Semrau & Mr. Putnam:

This office represents Gold Mine Road Solar, LLC ("GMRS"). As detailed in my email of January 23, 2020 to Mr. Semrau, GMRS is the assignee of the Agreement from MOCD. I have again enclosed the Memorandum of Assignment dated January 9, 2020 between MOCD and GMRS, which memorialized the assignment of the Agreement from MOCD to CMRS.

Purchaser hereby requests that the Township complete the assignment of Tax Sale Certificate 90-1S to GMRS pursuant to Section 1(b) of the Agreement. In accordance with that Section, the Township should, not more than 30 days following receipt of this notice, deliver to

GIORDANO, HALLERAN & CIESLA

A Professional Corporation
ATTORNEYS-AT-LAW

Township of Mount Olive

January 23, 2020

Page 2

GMRS an assignment of the Tax Sale Certificate in proper form for recording, duly executed, dated, and notarized. The Assignment of Tax Sale Certificate should be delivered to the undersigned at the following address in accordance with Section 11 of the Agreement:

Steven P. Gouin, Esq.
Giordano, Halleran & Ciesla, P.C.
125 Half Mile Road, Suite 300
Red Bank, NJ 07701
Email: sgouin@ghclaw.com
Facsimile: (732) 224-6599

In light of the aforementioned assignment, going forward, any notices in connection with the Agreement should be provided to GMRS at the following address:

Gary R. Cicero
Gold Mine Road Solar, LLC
20 A South Beers Street
Holmdel, NJ 07733
Email: gary_cicero@cepsolar.com
Facsimile: (732) 224-6599

A copy of any such notices should also be provided to me at the address listed above. We would also appreciate it if notices of tax bills for the subject property could be provided to GMRS at the above addresses so that GMRS can maintain compliance with the Agreement in that respect.

Once we have completed the assignment of the Tax Sale Certificate to GMRS, GMRS will be in a position to commence foreclosure proceedings as soon as reasonably practicable.

Please consider this letter also as GMRS's formal request to be designated "redeveloper" of the property that is the subject of the Tax Sale Certificate by the Township of Mount Olive in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et. seq. and the Combe Fill North Redevelopment Plan. We understand that the Township is going to review the timing of this designation and also whether a "conditional" designation would be appropriate at this time. GMRS is intently interested in pursuing all required approvals for a solar facility on the subject property as soon as possible and the Township's prompt attention and anticipated cooperation is appreciated.

GIORDANO, HALLERAN & CIESLA

A Professional Corporation
ATTORNEYS-AT-LAW

Township of Mount Olive

January 23, 2020

Page 3

Thank you for your attention to this matter.

Very truly yours,



STEVEN P. GOUIN

SPG/lml

Enclosure

cc: Gary Cicero (via email w/enclosure)
Justin Sallusto (via email w/enclosure)
Chuck McGroarty, PP (via email w/enclosure)
Andrew Tatarenko (via email w/enclosure)
Susan Sharpe, Esq. (via email w/enclosure)
Efrem Gerszberg (via email w/enclosure)
Marc D. Policastro, Esq. (via email w/enclosure)
David J. Miller, Esq. (via email w/enclosure)

Docs #4147478-v1

Morris County Recording Cover Sheet



Honorable Ann F. Grossi, Esq.
Morris County Clerk

MORRIS COUNTY, NJ
Ann F. Grossi
AGR-OR BOOK 23701 PG 1205
RECORDED 01/27/2020 15:03:05
FILE NUMBER 2020005499
RCPT # 1509025; RECD BY: BREA eRecord
RECORDING FEES 270.00
INDEX FEE

Official Use Only - Realty Transfer Fee

Official Use Only - Barcode

Date of Document:
01/09/2020

Type of Document:
ASSIGNMENT TAX SALE

First Party Name:
MT. OLIVE COMBE DEVELOPMENT LLC

Second Party Name:
GOLD MINE ROAD SOLAR LLC

ADDITIONAL PARTIES

THE FOLLOWING SECTION IS REQUIRED FOR DEEDS ONLY

Block:

Lot:

Municipality:

Consideration:

Mailing Address of Grantee:

**THE FOLLOWING SECTION IS FOR ORIGINAL MORTGAGE BOOK & PAGE INFORMATION FOR AN
ASSIGNMENT, RELEASE, OR SATISFACTION OF A MORTGAGE OR AN AGREEMENT RESPECTING A MORTGAGE**

Original Book:
20922

Original Page:
345

MORRIS COUNTY RECORDING COVER SHEET

Please do not detach this page from the original document as it contains important recording information and is part of the permanent record.

WARNING: Information contained on the Recording Cover Sheet must exactly match the information within the attached document or the document will be rejected and returned.

MEMORANDUM OF ASSIGNMENT

THIS MEMORANDUM OF ASSIGNMENT (this “Memorandum”) is dated January 9, 2020 (“Effective Date”) and is made by Mt. Olive Combe Development, LLC, a New Jersey limited liability company with an address of 647 Route 18, Suite M, East Brunswick, NJ 08816 (“Assignor”) and Gold Mine Road Solar, LLC, a New Jersey limited liability company with an address of 20A South Beers Street, Holmdel, NJ 07733 (“Assignee”). Assignor and Assignee are sometimes individually referred to herein as a “Party,” and collectively as the “Parties.”

RECITALS:

A. Assignor, as assignee, and the Township of Mount Olive, Morris County, New Jersey (the “Township”) have entered into that certain Agreement of Sale dated December 4, 2019 (the “Contract”) that pertains to the Assignee’s acquisition from the Township of that certain tax sale certificate known as Tax Sale Certificate 90-1S, recorded on September 20, 2007 in the Morris County Land Records at Book 20922, Page 345, a copy of which is attached as Exhibit A (the “Tax Sale Certificate”) pertaining to that certain real property formally identified as Lot 10 in Block 4100 on the Township’s tax map and more commonly identified as the North Combe Landfill located at 149 Gold Mine Road, Mount Olive, Morris County, NJ (the “Property”). A true and complete copy of the Contract, as the same exists as of the Effective Date, is attached hereto as Exhibit B.

B. Assignor and Assignee have entered into that certain Assignment of Rights Agreement dated as of the Effective Date (“the “Assignment of Rights Agreement”) whereby Assignor has assigned the Contract to Assignee and Assignee has assumed the Contract from Assignor.

C. As of the Effective Date, Assignor, for valuable consideration received, has assigned the Contract and certain Due Diligence Information (as defined in the Assignment of Rights Agreement) to Assignee (the “Assignment”), subject to the terms and conditions of the Assignment of Rights Agreement.

D. The Parties desire to execute this Memorandum to provide a short form of agreement detailing the Assignment for the purpose of Assignee presenting to third parties or governmental entities to as definitive evidence of the Assignment.

E. Any capitalized terms used, but not otherwise defined in this Assignment, shall have the respective meanings given to such terms in the Contract or the Assignment of Rights Agreement, as applicable.

NOW, THEREFORE, for good and valuable consideration, including the performance of the obligations set forth in this Agreement, the Parties agree as follows:

1. Assignment and Assumption. As of the Effective Date Assignor has assigned all of its right, title, and interest to the Contract and the Tax Sale Certificate to Assignee. Also as of the Effective Date, Assignee has assumed all of Assignor’s duties and obligations as set forth in the Contract and otherwise related to the Contract or the Tax Sale Certificate.

2. Consideration. As of the Effective Date, Assignee has paid to Assignor, in consideration of the Assignment, valuable consideration which Assignor admits to having received. Assignor hereby confirms the legal sufficiency of such consideration.

3. Assignment Effective Date. The effective date of the Assignment is the Effective Date.

4. Notices. Any notice authorized, required, or permitted to be given pursuant to this Memorandum shall be deemed to have been given upon the depositing of such notice in the United States mail, postage prepaid, certified mail or registered mail, return receipt requested, and properly addressed to the Party to be notified at address set forth on the first page of this Agreement, with a copy by email to:

If to Assignor: Efrem Gerszberg
777 New Durham Road, Suite D
Edison, NJ 08817

If to Assignee: Steven P. Gouin, Esq.
Giordano, Halleran & Ciesla, PC
125 Half Mile Road, Suite 300
Red Bank, NJ 07701
sgouin@ghclaw.com

Any Party may, from time to time and at any time, change its address by giving ten (10) days' written notice to the other Party of such change of address in the manner set forth above.

15. Miscellaneous.

(a) *Severability*. If any provision of this Memorandum is illegal, invalid, or unenforceable under present or future laws, the remainder of this Agreement will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as possible but that is legal, valid, and enforceable will be added.

(b) *Governing Law; Venue*. This Memorandum shall be governed by and construed according to the laws of the State of New Jersey.

(c) *Headings*. The section and paragraph headings in this Agreement are for convenience only and do not change the meaning of the sections and paragraphs.

(d) *Counterparts*. This Memorandum may be executed in a number of identical counterparts which, taken together, shall constitute collectively one agreement.

(e) *Recording*. Assignee may record this Memorandum of Assignment in the land records of Morris County, NJ.

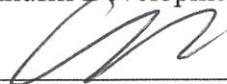
Signature Page Follows.

ASSIGNOR SIGNATURE PAGE TO MEMORANDUM OF ASSIGNMENT

IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the Effective Date.

ASSIGNOR:

Mt. Olive Combe Landfill Development, LLC

By: 

Name: Efreem Gerszberg

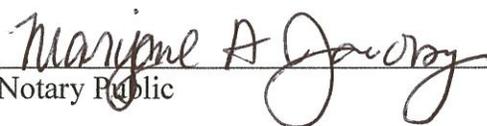
Title: Managing Member

Date: Jan 8, 2020

ACKNOWLEDGMENT

STATE OF NEW JERSEY :
: SS.
COUNTY OF Middlesex :

BE IT REMEMBERED, that on this 9 day of January, 2020 before me, the subscriber, personally appeared Efreem Gerszberg who acknowledged under oath, to my satisfaction, that he (a) is the managing member of Mt. Olive Combe Landfill Development, LLC, the limited liability company named in the within instrument and is authorized to sign the within instrument on behalf of the limited liability company; and (b) as such member or manager, signed, sealed and delivered this instrument as the voluntary act and deed of the limited liability company, made by virtue of authority from all of its members.


Notary Public

[Notarial Seal]
My Commission Expires:

MARYJANE A. JACOBY
NOTARY PUBLIC OF NEW JERSEY
Comm. # 50095788
My Commission Expires 1/2/2024

R+R:
Giordano, Halleran and Cresta
125 Half mile Rd. Suite 300
Red Bank, NJ 07701-6777

ASSIGNEE SIGNATURE PAGE TO MEMORANDUM OF ASSIGNMENT

IN WITNESS WHEREOF, the Parties have executed this Memorandum as of the Effective Date.

ASSIGNEE:

Gold Mine Road Solar, LLC

By: 

Name: Gary R. Cicero

Title: Managing Member

Date: January 9, 2020

ACKNOWLEDGMENT

STATE OF NEW JERSEY :
: SS.
COUNTY OF Monmouth :

BE IT REMEMBERED, that on this 9 day of January, 2020 before me, the subscriber, personally appeared Gary R. Cicero who acknowledged under oath, to my satisfaction, that he (a) is the managing member of Gold Mine Road Solar, LLC, the limited liability company named in the within instrument and is authorized to sign the within instrument on behalf of the limited liability company; and (b) as such member or manager, signed, sealed and delivered this instrument as the voluntary act and deed of the limited liability company, made by virtue of authority from all of its members.


Notary Public

[Notarial Seal]
My Commission Expires:

Steven P. Gouin
Attorney at Law
State of New Jersey

AGREEMENT OF SALE

Tax Sale Certificate 90-1S
Block 4100, Lot 10
149 Gold Mine Road
Township of Mount Olive, County of Morris
State of New Jersey

THIS AGREEMENT OF SALE (this "*Agreement*") is made this 4th day of December, 2019 between the Township of Mount Olive (the "*Township*") and Mt. Olive Combe Development LLC, a New Jersey Limited Liability Company with an address of c/o Giordano, Halleran & Ciesla, P.C., 125 Half Mile Road, Red Bank, New Jersey 07701, Attention: Marc D. Policastro, Esq. (together with its assigns or designees, the "*Purchaser*").

Recitals

WHEREAS, the Township is the holder of Tax Sale Certificate 90-1S (the "*Tax Certificate*") for the property designated as Block 4100, Lot 10 and more commonly known as 149 Gold Mine Road within the Township of Mount Olive, County of Morris, and State of New Jersey (the "*Property*"); and

WHEREAS, pursuant to that certain Resolution of the Township of Mount Olive, in the County of Morris and State of New Jersey, Authorizing the Public Sale of Tax Sale Certificates Pursuant to N.J.S.A. 54:5-114.2 dated October 1, 2019 ("*Resolution No. 1*"), the Township authorized the sale of the Tax Certificate at a public auction held on November 1, 2019 at 9:30 a.m. at the Mount Olive Municipal Building located at 204 Flanders-Drakestown Road, Budd Lake, New Jersey (the "*Public Auction*"); and

WHEREAS, on November 1, 2019, Purchaser was the winning bidder at the Public Auction, with a winning bid of Five Hundred Twenty-Five Thousand and 00/100 Dollars (\$525,000.00) (the "*Winning Bid*"), and Purchaser, in accordance with Resolution No. 1, paid an amount equal to ten percent (10%) of the Winning Bid, or Fifty-Two Thousand Five Hundred and 00/100 Dollars (\$52,500.00) (the "*Initial Winning Bid Payment*"), to the Township immediately following the conclusion of the Public Auction; and

WHEREAS, pursuant to that certain Resolution of the Township Authorizing the Sale of the Tax Certificate to Mt. Olive Combe Development LLC, dated December 3, 2019 ("*Resolution No. 2*"), the Township has recognized and ratified the sale of the Tax Certificate to Purchaser at the Public Auction on the terms and conditions set forth in Resolution No. 1; and

WHEREAS, pursuant to Resolution No. 1, the Township and the Purchaser must enter into this Agreement to set forth the terms and conditions for (i) the diligence period available to the Purchaser with respect to Purchaser's intended development of the Property, (ii) the Purchaser's payments and other obligations, (iii) the timing and obligations of both the Township and the Purchaser with respect to the process of foreclosure of the right of redemption, and (iv) the timing

and obligations of both the Township and the Purchaser with respect to the Purchaser's closing of title on the Property.

NOW, THEREFORE, Purchaser and the Township, for good and valuable consideration, receipt of which is hereby acknowledged, as well as the mutual promises and covenants contained in this Agreement, intending to be legally bound, do hereby agree as follows:

1. Agreement to Assign and Assume the Tax Certificate.

(a) The Township agrees to assign all of its rights, title and interest in and to the Tax Certificate to Purchaser, and, subject to the provisions of this Agreement, Purchaser agrees to assume the Tax Certificate from Township, at the time, in the manner and upon the terms and conditions, herein set forth.

(b) Provided no Purchaser Default (as defined below) has occurred, Purchaser shall have the right, at any time during the pendency of this Agreement, whether or not the Due Diligence Period has expired, to provide written notice to the Township to require the Township to complete the assignment of the Tax Certificate to Purchaser. Within not more than thirty (30) days following the Township's receipt of such notice, the Township shall deliver to Purchaser an assignment of the Tax Sale Certificate by the Township to Purchaser, which assignment shall be in proper form for recording, duly executed, dated, and notarized (the "*Assignment of Tax Certificate*"). Purchaser shall thereafter have the right to record the Assignment of Tax Certificate in the applicable records; provided, however, that Purchaser shall, simultaneously with the filing of the Assignment of Tax Certificate in the applicable records, deliver to the Township attorney a duly executed and notarized assignment of the Tax Certificate from Purchaser to the Township, in proper form for recording ("*Reversionary Assignment*"), which Reversionary Assignment shall be held in escrow by the Township attorney and released to the Township only in the event that the Purchaser subsequently delivers a Notice to Terminate to the Township or defaults beyond expiration of applicable notice and cure periods on its obligations to make any Purchaser Payments hereunder; otherwise, the Reversionary Assignment shall be released to Purchaser upon payment in full of the Purchaser Payments due hereunder.

(c) The parties agree and acknowledge that (i) the provisions of N.J.S.A. 54:5-86(a) apply to the Tax Certificate, as the Township is the original purchaser of the Tax Certificate and by operation of this Agreement, shall assign the Tax Certificate to Purchaser and the Purchaser shall thereafter be deemed the assignee of the Tax Certificate, and (ii) Purchaser, as the assignee of the Tax Certificate under N.J.S.A. 54:5-86(a), has the right to institute an action to foreclose the right of redemption at any time following the assignment of the Tax Certificate by the Township to the Purchaser, as the six month time period recited in N.J.S.A. 54:5-86(a) expired six months following the date the Township originally purchased the Tax Certificate.

(d) The parties further agree and acknowledge that except in the event of a Purchaser Default or other termination of this Agreement as permitted herein, in no event shall the Township have the right to institute an action to foreclose the Tax Certificate during the pendency of this Agreement prior to the date upon which the Assignment of Tax Certificate is delivered to Purchaser.

2. Due Diligence Period.

(a) The Township hereby grants the Purchaser with the right to a period of eighteen (18) months (the “*Due Diligence Period*”) from the date which is the later to occur of the date of this Agreement and the date upon which the Township delivers or otherwise provides access to the materials described in Section 2(b) below (the “*Effective Date*”) to conduct any and all investigations, evaluations, inspections, tests, appraisals and other due diligence desired by Purchaser regarding the Property and Purchaser’s intended development of the Property. Purchaser, its employees, agents, contractors and subcontractors, are hereby given whatever rights the Township has to enter upon the Property during the Due Diligence Period for the purpose of inspecting the Property. Purchaser’s (and its employees, agents, contractors and subcontractors) entry onto the Property pursuant to this Section 2(a) shall be subject to the provisions of Section 2(c) below. During the Due Diligence Period, Purchaser shall have the right to communicate with any and all local, county, state, or federal governmental authorities or agencies with jurisdiction over the Property (collectively, “*Governmental Authorities*”), including without limitation the New Jersey Department of Environmental Protection (“*NJDEP*”) and/or United States Environmental Protection Agency (“*USEPA*”), with whom Purchaser acknowledges Purchaser shall have to coordinate access to the Property. So long as appropriate insurance is obtained by Purchaser in accordance with Section 2(c) below, Purchaser shall have the legal right, which the Township has by virtue of the Tax Certificate, to make any and all environmental, geotechnical, and hydrogeological investigations, evaluations, inspections, tests, and appraisals deemed necessary for Purchaser’s complete due diligence of the Property. Purchaser hereby agrees to share with the Township, upon reasonable request, any third-party reports generated in connection with Purchaser’s investigation. Purchaser acknowledges that Purchaser may be required to obtain consent from NJDEP and/or USEPA for certain testing at the Property, which efforts the Township shall support.

(b) The Township shall use best efforts to deliver to Purchaser, within five (5) business days from the date hereof, copies of the following materials, to the extent such materials are in the Township’s possession or control: any surveys, plans, title reports, soil or environmental tests, engineering, geotechnical, or topographical studies or maps, environmental reports, prior approvals for development of the Property, approvals or other documents from the New Jersey Department of Environmental Protection and/or United States Environmental Protection Agency, other environmental information, leases, licenses, occupancy agreements, service contracts, management agreements, and other pertinent information related to the ownership, use, occupancy, and/or operation of the Property. The Township shall make any information within its possession or control available to the Purchaser upon reasonable request therefor, and shall make any information which first comes in to Township’s possession or control following the date of this Agreement promptly available to Purchaser without requirement of request therefor.

(c) During the pendency of this Agreement and subject to the provisions of Section 2(a), the Purchaser and the Purchaser’s employees, agents, contractors, and subcontractors shall be permitted to coordinate directly with the NJDEP to enter upon the Property at any time after the date hereof and while thereon make surveys, take measurements, make structural engineering and geotechnical studies and inspect the Property. In connection with Purchaser’s (or its employees, agents, contractors and subcontractors) entry, Purchaser shall (a)

keep the Property free of any liens or third-party claims resulting therefrom, (b) indemnify and hold harmless Township from and against any and all actual damages, claims, actions, penalties, liabilities, losses and expenses incurred by or asserted against the Township arising from personal injury or property damage as a direct result of Purchaser's (or its employees, agents, contractors and subcontractors) entry onto the Property, and (c) procure general commercial liability insurance with commercially reasonable limits.

(d) Purchaser may elect to cancel this Agreement at any time, for any reason, or for no reason, on or prior to expiration of the Due Diligence Period, in which event this Agreement shall terminate and the parties shall have no further liabilities hereunder except for those obligations and liabilities which expressly survive termination of this Agreement. Purchaser shall provide a written notice to Township in advance of the Due Diligence Period expiration indicating whether it intends to proceed with the transaction ("*Notice to Proceed*") or to terminate this Agreement ("*Notice to Terminate*"). If Purchaser fails to deliver a Notice to Proceed by 5:00 P.M. on the expiration date of the Due Diligence Period, or if Purchaser delivers a Notice to Terminate, this Agreement shall automatically terminate, the Township shall be entitled to all Purchaser Payments (as defined below) paid as of the date of such termination, and the parties shall have no further obligations to each other hereunder.

(e) Purchaser may deliver a Notice to Proceed to the Township at any time during the Due Diligence Period, it being understood and agreed by the parties that delivery of a Notice to Proceed prior to the expiration of the Due Diligence Period (i) shall not impact the timing of any payments required to be made by Purchaser under Article 4, and (ii) shall be deemed to extend the Foreclosure Period (as defined below) by the number of days remaining in the Due Diligence Period, so that Purchaser has the benefit of the full thirty-six (36) month period to complete foreclosure and make the Purchaser Payments in accordance with the schedule set forth in Article 4.

(f) Purchaser acknowledges and agrees that the Township holds only the Tax Certificate, and has no ownership or possessory interest in or to the Property, and takes no responsibility for the condition of the Property. Except as otherwise expressly represented, warranted, or covenanted by the Township in this Agreement, it is understood and agreed that the Township is not making and has not at any time made any representations, warranties, or covenants of any kind or character to Purchaser with respect to the Property.

(g) For the avoidance of doubt, if the Agreement is terminated as set forth in Section 2(d), the Township shall be free at its sole discretion to consider all legal options as to the further transfer of the Tax Certificate.

3. Foreclosure Period.

(a) In accordance with the terms and conditions contained in Resolution No. 1 and the applicable provisions of the New Jersey Tax Sale Law (N.J.S.A. 54:5-1 et seq), the Township hereby grants the Purchaser with the right to a period of eighteen (18) months, beginning on the day which is the later to occur of the date immediately following the expiration of the Due Diligence Period or the five hundred forty-first (541st) day following the Effective Date (pursuant to Section 2(e) above), assuming the Purchaser has delivered a Notice to Proceed

(the “*Foreclosure Period*”), to pursue and obtain a final judgment of foreclosure of the right of redemption on the Tax Certificate (the “*Foreclosure Judgment*”). Purchaser shall (i) continue to have all of the access, investigation, and communication/coordination rights granted to Purchaser under Article 2 during the Foreclosure Period, (ii) continue to comply with Purchaser’s obligations under Section 2(b) during the Foreclosure Period. In the event that Purchaser is unable to obtain a Foreclosure Judgment within the Foreclosure Period as a result of any circumstances beyond the reasonable control of Purchaser and not caused by the fault or delay of Purchaser, Purchaser shall have the right to deliver a Notice to Terminate to the Township, and this Agreement shall automatically terminate, the Township shall be entitled to all Purchaser Payments (as defined below) paid as of the date of such termination, and the parties shall have no further obligations to each other hereunder except as expressly survive.

(b) Within ten (10) business days following the Foreclosure Judgment, Purchaser shall deliver to the Township a quitclaim deed transferring ownership of fee title to the Property from Purchaser to the Township, in proper form for recording with the Morris County Clerk, duly executed, dated, and notarized by Purchaser (the “*Quitclaim Deed*”), which Quitclaim Deed shall be held in escrow by the Township pursuant to the escrow instructions of Purchaser’s counsel. In the event the Purchaser fails to make any applicable Purchaser Payments after notice and the cure period set forth in Section 4(e)(i), the Township shall have the right to take possession of the Quitclaim Deed and record same with the Morris County Clerk, and all prior Purchaser Payments shall be deemed nonrefundable and the parties shall have no further obligations to each other thereafter.

4. Purchaser Payments; Purchase Price.

(a) Simultaneously with the parties’ due execution and delivery of this Agreement, and in accordance with Resolution No. 1, Purchaser has paid to the Township an amount equal to Four Hundred Seventy-Two Thousand Five Hundred and 00/100 Dollars (\$472,500.00) (the “*Final Winning Bid Payment*”, and together with the Initial Winning Bid Payment, the “*First Installment Payment*”), which Final Winning Bid Payment represents the balance owed by Purchaser with respect to Purchaser’s Winning Bid at the Public Auction. The First Installment Payment shall be non-refundable but will be applicable to the Purchase Price at Closing.

(b) Provided Purchaser has not previously delivered a Notice to Terminate, within five hundred and forty (540) days following the Effective Date, and in accordance with Resolution No. 1, Purchaser shall pay to the Township an amount equal to One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) (the “*Second Installment Payment*”), which Second Installment Payment shall be non-refundable but will be applicable to the Purchase Price at Closing.

(c) Provided Purchaser has not previously delivered a Notice to Terminate, within one thousandth and eighty (1080) days following the Effective Date, and in accordance with Resolution No. 1, Purchaser shall pay to the Township an amount equal to One Hundred Fifty Thousand and 00/100 (\$150,000.00) (the “*Third Installment Payment*”) which Third Installment Payment shall be non-refundable but will be applicable to the Purchase Price at Closing.

(d) Provided Purchaser has not previously delivered a Notice to Terminate, on the date which is the earlier to occur of eighteen (18) months following the Title Closing (as defined below) and thirty-six (36) months following the Effective Date of this Agreement, Purchaser shall pay to the Township an amount (the "*Final Installment Payment*", and together with the First Installment Payment, the Second Installment Payment, and the Third Installment Payment, the "*Purchaser Payments*") equal to (i) the total interest, penalties, and principal due on the Tax Certificate as of the date of Closing, less (ii) the First Installment Payment, the Second Installment Payment and the Third Installment Payment. The Final Installment Payment shall be paid in the form of cash, certified or bank check, or by federal funds wire transfer to the account of Township as directed by Township. As of the date of this Agreement, the estimated total due to redeem the Tax Certificate is equal to Two Million Two Hundred Sixty Thousand Four Hundred Eighty-Seven and 76/100 Dollars (\$2,260,487.76); provided, however Purchaser acknowledges that interest may continue to accrue on the redemption value of the Tax Certificate and that the amount recited herein as of the date of this Agreement only.

(e) (i) In the event that Purchaser fails to make any Purchaser Payments within thirty (30) days following notice from Township to Purchaser of Purchaser's failure to make such payment on the date due, the Township shall thereafter have the right, at its election, to terminate this Agreement, and if the Township so terminates, the Township shall be entitled to all Purchaser Payments previously received, and the parties shall have no further obligations to each other hereunder, except as which expressly survive such termination. However, if the Township elects, for any reason, not to terminate this Agreement as aforesaid, and Purchaser pays the delinquent amount in full, Township's right to terminate this Agreement shall be deemed null and void as to such delinquent Purchaser Payment.

(ii) In the event of a Purchaser Default, Township shall retain all Purchaser Payments as full, complete, and liquidated damages as Township's sole and exclusive remedy, in lieu of any other liability of Purchaser.

5. Foreclosure Proceedings and Judgment: Closing of Title.

(a) Foreclosure Proceedings. Following Purchaser's confirmation that the Assignment of Tax Certificate has been duly recorded, Purchaser shall have the right, at any time during the Foreclosure Period, to commence an action for foreclosure of the Tax Certificate. Once commenced, Purchaser shall pursue foreclosure of the Tax Certificate using good faith and diligent efforts. The Township shall cooperate in good faith with Purchaser's efforts to foreclose on the Tax Certificate.

(b) Foreclosure Judgment: Closing of Title. Purchaser's taking of title to the Property and payment of the Final Installment Payment to the Township (the "*Title Closing*") shall take place upon the date specified by Purchaser in a written notice to the Township; provided, that the Title Closing date shall be not less than ten (10) business days following receipt of by Purchaser of a final judgment of foreclosure of the right of redemption relating to the Tax Certificate (the "*Foreclosure Judgment*"), and not later than the date which is the earlier to occur of (i) eighteen (18) months following the issuance of the Foreclosure Judgment, and (ii) thirty-six (36) months following the date of this Agreement.

(c) Real Estate Taxes. From and after the date of this Agreement and continuing until the earlier to occur of the termination of this Agreement or the Closing, the Purchaser shall be obligated to pay all real estate taxes applicable to the Property (“*Taxes*”). In the event the Purchaser fails to make any payment of Taxes when due, and such failure continues for a period of thirty (30) days following notice of delinquency from the Township, the Township shall thereafter have the right, at its election, to terminate this Agreement, and if the Township so terminates, the Township shall be entitled to all Purchaser Payments, shall be entitled to the immediate and absolute repossession of the Tax Certificate (to the extent same has been assigned by the Township to the Purchaser at such time), and the parties shall have no further obligations to each other hereunder, except as which expressly survive such termination. However, if the Township elects, for any reason, not to terminate this Agreement as aforesaid, and Purchaser pays the delinquent amount of Taxes in full, Township’s right to terminate this Agreement shall be deemed null and void as to such delinquent Taxes.

(d) Fees, Costs and Expenses. Purchaser shall bear all fees, costs, and expenses incurred in connection with Purchaser’s due diligence, action to foreclose, and title closing. The Township and Purchaser shall each pay their own attorney’s fees relating to the Closing.

6. Purchaser’s Representations and Warranties. Purchaser represents and warrants that Purchaser has full power and authority to enter into and fulfill Purchaser’s obligations under this Agreement and the execution, delivery and performance of this Agreement by Purchaser constitutes a valid and binding obligation of Purchaser enforceable in accordance with its terms. No consent, waiver, or approval by any other party is required in connection with the execution and delivery by Purchaser of this Agreement or the performance by Purchaser of its obligations hereunder or any instrument contemplated thereby. Neither the entering into of this Agreement nor the consummation of such sale will constitute a violation or breach by Purchaser of any contract or other instrument to which Purchaser is a party or to which Purchaser is subject or by which any of Purchaser’s assets or properties may be affected, or of any judgment, order, writ, injunction or decree issued against or imposed upon Purchaser, nor will the said sale result in a violation of any applicable law, order, rule, or regulation of any Governmental Authority. At Closing, Purchaser shall be deemed to have represented and warranted to Township that each of the aforesaid representations and warranties are true, accurate and complete as of Closing.

7. Purchaser Default. In the event that, unless due to a Township Default, Purchaser shall fail to complete Closing under this Agreement by the date which is thirty-six (36) months following the Effective Date, such failure shall be deemed a “*Purchaser Default*” hereunder, and Township shall be entitled to terminate this Agreement, retain all Purchaser Payments, demand an assignment of the Tax Certificate back to the Township (if applicable), and/or take possession of the Quitclaim Deed and record same (if applicable), and neither party shall have any further liability hereunder.

8. Township Default. In the event that, unless due to a Purchaser Default, Township shall fail to perform any of its obligations under this Agreement, in each case within the time frames set forth herein, any of which failure is not cured within thirty (30) days following written notice from Purchaser, such failure or breach shall be deemed a “*Township Default*” hereunder,

and Purchaser shall be entitled at its election (i) to terminate this Agreement, (ii) to sue for specific performance, and/or (iii) to exercise any rights or remedies available at law or in equity.

9. Moratorium. If, prior to Closing, (i) any Governmental Authority declares or effects (whether it be *de jure*, *de facto* or otherwise) any moratorium on, or other impediment to, the sale of the Tax Certificate by the Township to the Purchaser, the issuance by the Township of the Assignment of Tax Certificate, or Purchaser's pursuit of the Foreclosure Judgment, or shall in any other way prohibit or impair Purchaser in any respect from exercising its rights under this Agreement as the winning bidder of the Tax Certificate, or (ii) any litigation is brought seeking or challenging the sale of the Tax Certificate by the Township to the Purchaser or the issuance by the Township of the Assignment of Tax Certificate, or seeking to prohibit or impair Purchaser in any respect from foreclosing the Tax Certificate and taking title to the Property, or seeking to contest or challenge the issuance of any Approvals, or (iii) any litigation is brought by either Township or Purchaser with respect to a breach, default, or other dispute under this Agreement, then Purchaser shall have the right, at Purchaser's election, to extend all affected election and/or performance dates as necessary in Purchaser's sole discretion, and/or at any time prior to final and unappealable resolution of the moratorium, impediment or litigation, to terminate this Agreement. In the event this Agreement is terminated pursuant to this Article, then neither party shall have any further liability to the other hereunder, and any Purchaser Payments made prior to such termination shall be retained by the Township. In the event any moratorium or litigation which has resulted in Purchaser invoking its rights pursuant to this Article has not been terminated within twenty-four (24) months following the date on which Township receives notice from Purchaser invoking the provisions of this Article, Township and Purchaser shall each have the right to terminate this Agreement by written notice to the other unless (as to a termination by Township), within thirty (30) days following Purchaser's receipt of such notice, Purchaser agrees to waive the continuation of the staying of time periods under this Article. For the avoidance of doubt, Purchaser shall have the right to toll all time periods for performance and payment requirements under this Agreement from the commencement of any such moratorium or litigation until same has been terminated to the satisfaction of Purchaser.

10. Foreclosure by Township; Eminent Domain. Township covenants and warrants that it has not heretofore issued any notice of any condemnation proceedings or other proceedings in the nature of eminent domain in connection with the Property, and that the Township shall not, during the period of pendency of this Agreement, take any condemnation action or similar proceedings in connection with the Property. The Township also covenants and warrants that during the period of pendency of this Agreement prior to the delivery of the Assignment of Tax Certificate to Purchaser, the Township shall not exercise any rights under the New Jersey Tax Sale Law or the New Jersey In Rem Foreclosure Act to foreclose the Tax Certificate and take title to the Property.

11. Notices. All notices, requests and other communications under this Agreement shall be in writing and shall be sent by certified or registered mail, postage pre-paid, return receipt requested, or nationally recognized overnight delivery service, with a copy by facsimile and email transmission, addressed as follows:

If intended for Purchaser:

c/o Giordano, Halleran & Ciesla, PC
125 Half Mile Road, Suite 300
Red Bank, NJ 07701
Attention: Marc D. Policastro, Esq. and Jennivere L. Kenlon, Esq.
Facsimile: (732) 224-6599
Email: mpolicastro@ghclaw.com and jkenlon@ghclaw.com

If intended for the Township:

Township of Mount Olive
204 Flanders-Drakestown Road
PO Box 450
Budd Lake, New Jersey 07828
Attention: Rose Barsanti, CTC
Facsimile: 973-691-9257
Email: rbarsanti@mtolivetwp.org

with a copy to:

Fred Semrau, Esq.
Dorsey & Semrau
714 Main Street, P.O. Box 228
Boonton, New Jersey 07005
Phone: (973) 334-1900
Fax: (973) 334-3408
Email: fsemrau@dorseysemrau.com

with a copy to:

New Jersey Department of Environmental Protection
Mail Code: 401-05Q
401 East State Street
PO Box 420
Trenton, NJ 08625-0420
Attention: Ed Putnam
Phone: 609-984-3074
Email: Ed.Putnam@dep.nj.gov

or at such other address of which the Township or Purchaser shall have given notice as herein provided. All such legal notices, requests and other communication may be given by the legal counsel for such party.

12. Township Cooperation.

(a) In pursuing Purchaser's due diligence of the Property, foreclosure on the Tax Certificate, and any municipal, county, state and federal governmental approvals deemed

necessary by Purchaser to develop the Property for warehouse, solar, and other uses (the "Project") following the Title Closing (the "Approvals"), this Agreement shall constitute Township's authorization to allow Purchaser to file such applications and seek such governmental action with respect to the Property as Purchaser may deem necessary or appropriate, and any Governmental Authority shall be entitled to rely on this provision as evidence of authority thereof; provided, however, Purchaser shall not file any applications for Approvals for the Project prior to the Assignment of Tax Certificate. The parties will cooperate with one another, to the extent permitted by law, in connection with Purchaser's due diligence of the Property, pursuit of the Foreclosure Judgment, and Project Approvals, and the Township shall execute such consents, applications, and other documents requested by Purchaser in a timely manner.

(b) The Township shall use its best efforts to cooperate with Purchaser in the development of the Property consistent with any Approvals obtained by Purchaser for the Property. Such cooperation shall include, but not be limited to, the prompt review and, if appropriate, approval of any and all agreements, applications and/or permits necessary for the development of the Property. Such applications shall include, but not be limited to, applications related to the Township Planning Board, County of Morris, the New Jersey Department of Transportation, New Jersey Department of Environmental Protection, public water and sewer for the Property, the vacation and/or relocation of any easements and/or paper streets impacting the Property subject to this Agreement. Purchaser and its respective representatives shall be permitted to meet with or have any discussions with any representatives of the Township or its constituent land use boards (including any counsel for said municipal entities) regarding the Project and the Property, and the Township shall advise the Purchaser of the prospect of any such meetings or discussions in advance and the Purchaser shall have the right to attend or participate in any such meetings or discussions.

(c) The Parties acknowledge that the proposed Project has not yet been engineered and agree that the proposed development of the Project may also require additional amendments to the Township's Land Use and Development Regulations and/or additional variances and/or waivers from the Township's Land Use and Development Regulations to accommodate the Project improvements contemplated to be constructed. Nothing in this Agreement shall prohibit the Purchaser from applying for such variance and waiver relief and the Township Planning Board from granting such relief prior to the Title Closing, provided that Purchaser has demonstrated sufficient proofs supporting the granting of such variances and/or waivers. The Township and the Purchaser shall cooperate in the drafting of any ordinance required to effectuate any such amendments. Further, the Township and Purchaser shall cooperate in any settlement negotiations necessary to resolve any issues which may be presented in connection with the Township's Mount Laurel fair share obligations and the requirements of the Non-Residential Development Fee Act, pursuant to N.J.S.A. 40:55D-8.1, et seq. as may relate to the Property, the Township's Housing Element and Fair Share Plan, and the development of the Project on the Property.

13. Miscellaneous.

(a) The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent hereof of any of the provisions hereof.

(b) This Agreement shall be governed by and construed according to the laws of the State of New Jersey.

(c) This is the entire contract between the parties. All previous communications between the parties, either oral or written, not contained herein are hereby withdrawn and annulled. This Agreement may be modified only by a writing executed by the parties hereto.

(d) This Agreement is binding upon and inures to the benefit of the parties hereto, and their respective heirs, personal representatives, successors and assigns in interest hereunder. This Agreement is not assignable by the Township. Purchaser may assign this Agreement to any third party at any time.

(e) This Agreement may be signed in one or more counterparts (or with counterpart signature pages) which, taken together, shall constitute a fully executed Agreement and shall be considered a single document. Facsimile or electronic signatures shall be taken as originals.

(f) If any date on which a time period scheduled to expire herein or on which payment or performance is due falls on a Saturday, Sunday or holiday, the subject date shall be extended to the next business day.

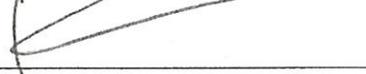
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

ATTEST



Name: Michelle-Masser
Title: Township Clerk
Date: 12/11/19

TOWNSHIP OF MOUNT OLIVE:

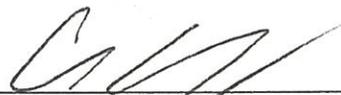


Name: Rob Greenbaum
Title: Mayor
Date: 12-11-19

PURCHASER:

MT. OLIVE COMBE DEVELOPMENT LLC



By: 

Name: Efreem Gerszberg
Title: Authorized Signatory
Date:

State of New Jersey
Department of Environmental Protection
Site Remediation and Waste Management Program
Enforcement and Information Support Element
401 East State Street, 6th Floor West
PO Box 420 - Mail Code 401-06A
Trenton, New Jersey 08625-0420
Telephone: (609) 633-1480
Fax: (609) 292-1975

IN THE MATTER OF

**MOUNT OLIVE TOWNSHIP,
COUNTY
BLOCK 4100, LOT 10
(FORMERLY BLOCK 12, LOT 54.1)
PROGRAM INTEREST NO. G00004588**

AND

MOUNT OLIVE SOLAR FARM, LLC

AND

GOLD MINE ROAD SOLAR, LLC

**ADMINISTRATIVE CONSENT
ORDER**

This Administrative Consent Order (“Order”) is issued pursuant to the authority vested in the Department of Environmental Protection (“Department” or “DEP”) by N.J.S.A. 13:1D-1 to -19, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.11z (“Spill Act”), the Brownfield and Contaminated Site Remediation Act, N.J.S.A. 58:10B-1 et seq. (“Brownfield Act”), the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. (SWMA) and duly delegated to the Administrator of the New Jersey Spill Compensation Fund and the Assistant Director of the Enforcement and Information Support Element within the Site Remediation and Waste Management Program of the Department pursuant to N.J.S.A. 13:1B-4.

FINDINGS

1. The Combe Fill North Landfill occupies approximately 65 acres of the 102.15-acre property located at 149 Gold Mine Road, in Mount Olive Township, Morris County. The property is also known and designated as Block 4100, Lot 10 (formerly Block 12, Lot 54.1) on the Tax Map of Mount Olive Township, Morris County (hereinafter “Property”). The Property, and all other areas where any hazardous substance discharged there has become located, is defined as the “Contaminated Site.”

2. The Contaminated Site is also known as the United States Environmental Protection Agency’s (“EPA’s”) Combe Fill North Superfund Site. The DEP, under a

Cooperative Agreement with EPA, conducted a remediation pursuant to a 1986 Record of Decision, with which the Department concurred. The details of the remediation are contained in available files maintained by the EPA and DEP. The DEP Program Interest number for this site is G000004588.

3. The selected remedy for this Contaminated Site included: the installation of a clay cap and drainage system; methane venting; security fencing; and ground water, surface water and air monitoring. Remedial action construction was completed in July 1991. Since that time, the Contaminated Site has been the subject of four “Five-Year Review” reports by the EPA to evaluate the protectiveness of the remedial action.

4. Since 1991, the DEP has been responsible for performing the Operation and Maintenance (O&M) activities of the Contaminated Site. O&M activities of the landfill portion of the Property have included the identification, monitoring, and repairing of cracks and landfill vents, in addition to general landscaping maintenance.

5. Since 1991, the DEP has been responsible for conducting surface water and ground water sampling, air monitoring, and the installation and sampling of an additional offsite monitoring well. Fifteen onsite monitoring wells require annual sampling.

6. On August 21, 2006, the New Jersey Spill Compensation Fund filed a first-priority lien (DJ-099-860-00) on the Property known as Block 12, Lot 54-1 (now known as Block 4100, Lot 10) for \$874,817.53 for remediation costs expended for this Contaminated Site as of October 14, 2005.

7. On December 20, 2019, the New Jersey Spill Compensation Fund filed an amended and revived first-priority lien (DJ-099-860-00) on the Property known as Block 4100, Lot 10 (formerly known as Block 12, Lot 54-1) for \$18,865,819.54 for remediation costs expended for this Contaminated Site as of December 18, 2019.

8. Mount Olive Solar Farm, LLC (“MOSF”) is a limited liability company formed on December 19, 2019 in the State of New Jersey with the registered agent and registered office for service being Gary R. Cicero, 20A South Beers Street, Holmdel, New Jersey 07733. MOSF will be the grid-scale solar facility (“Facility”) operator.

9. Gold Mine Road Solar, LLC (“GMRS”) is a limited liability company formed on December 19, 2019 in the State of New Jersey with the registered agent and registered office for service being Gary R. Cicero, 20A South Beers Street, Holmdel, New Jersey 07733. GMRS will become the property owner following foreclosure.

10. MOSF and GMRS shall collectively be referred to as the “Solar Entities.”

Definitions

11. Unless otherwise expressly provided, terms used in this Order that are defined in the Spill Act, the Brownfield Act, or the Site Remediation Reform Act (SRRRA), N.J.S.A.

58:10C-1 et seq., or in the regulations promulgated under those acts, shall have their statutory or regulatory meaning.

12. “Existing perimeter fence line” shall mean that portion of the Property demarcated by the fence line that surrounds the landfill within which the solar farm operations will be located.

Duration of the Order

13. This Order is valid upon execution by all parties for however long the Property is operated as a solar farm and until the Solar Entities are sent notice by the Department, in writing, to return the portion of the Property, occupied or impacted by the solar farm operations, to pre-solar farm construction conditions following the cessation of solar farm operations.

14. Should GMRS not pursue taking ownership of the Property and for the specific purpose of leasing the Property to MOSF, this Order is null and void. The Department shall be notified within 7 days of any proposed change of property ownership from GMRS or change of operator from MOSF.

NOW, THEREFORE, IT IS ORDERED AND AGREED AS FOLLOWS:

Remediation Requirements - Operation and Maintenance

15. By operation of law, GMRS is obligated to retain, and maintain, a Licensed Site Remediation Professional (LSRP) within 45 days of taking ownership of the Contaminated Site. If the Effective Date of this Order precedes GMRS taking Property ownership, within 45 days of the Effective Date of this Order, GMRS or MOSF shall retain and maintain a LSRP to oversee all remediation being conducted by the Solar Entities pursuant to this Order at this Contaminated Site. The Solar Entities may dismiss and/or retain an LSRP at their sole discretion provided an LSRP is maintained for this Contaminated Site by retaining a new LSRP within 45 days of any dismissal.

16. The Solar Entities agree to take over responsibility for maintaining the cap to prevent erosion of the cap material.

17. The Solar Entities agree to repair any damage to the landfill cap, existing perimeter fencing and storm water system both within and outside the Existing Perimeter Fence Line.

18. The Solar Entities, following taking title to this Property and/or beginning any activities related to the preparation for, and conducting, the Facility operation, agree to repair, to the DEP’s satisfaction, any damage to any existing features of the remedial action implemented at this Contaminated Site that are not otherwise caused by DEP or its contractors. All repairs shall be conducted in timeframes as defined by the DEP, or sooner, and to DEP’s specifications and satisfaction. All repair work shall be conducted under the oversight of an LSRP. The DEP recognizes that the timing of repairs may be subject to circumstances beyond the control of the Solar Entities and may grant extensions at its sole discretion.

19. The Solar Entities agree to provide the DEP and/or EPA prompt and unimpeded access to the Property, including full cooperation to remove, relocate or temporarily displace any onsite materials or equipment. The Solar Entities also agree to ensure that any operator, tenant, or leaseholder at this Property is required to provide the Solar Entities and the DEP prompt and unimpeded access to the Property, including full cooperation to remove, relocate or temporarily displace any onsite materials or equipment. Unimpeded access is for conducting the required O&M and repairs of the remedy, as defined in this Order, including, but not limited to, the landfill cap system, methane venting system, monitoring wells, perimeter and solar area fencing, drainage system, storm water controls, site grading, etc. should the Solar Entities fail to do so.

20. The Solar Entities shall ensure that the solar facility contractor(s) must defer to any work by DEP or DEP's or EPA's contractors that may conflict with their work if DEP must access the Contaminated Site.

21. The Solar Entities and their contractors must perform their work in a professional manner and leave the Contaminated Site clear of litter and debris.

22. The Solar Entities agree that they will be responsible for repairing the current Combe Fill North Landfill cap differential settlement and related drainage, at the Solar Entities' cost, as part of the granting of a Sanitary Landfill Disruption Permit ("SLDP"). This SLDP will require the use of clean fill for any cap repair, and include, but not be limited to, an evaluation of loading impacts related to Facility operations.

23. DEP agrees that it is responsible for any ground water remedial action and monitoring, and methane collection system and monitoring. This includes responsibility for all future costs and regulatory obligations in any way related to existing groundwater contamination and air monitoring. DEP obligations include all existing on-site and off-site ground water issues including third-party impacts including, but not limited to, impacts to drinking water or other wells or costs associated with extending municipal water utility service to impacted properties and related ground water monitoring. The Solar Entities agree to designate and provide DEP, in a form to be determined, with a portion of the non-landfill (i.e., noncapped) portion of the Contaminated Site for use by DEP and/or siting equipment associated with a "pump-and-treat" groundwater remediation system, in the event that is the remedy selected by DEP or EPA for addressing ground water contamination associated with the Contaminated Site. A map depicting potential sites for the pump-and-treat system is annexed here to as **Exhibit A**. DEP or EPA shall be responsible for all costs associated with said system.

24. In the case of any repairs or modifications to the gas wells or monitor wells by DEP, the Solar Entities understand these repairs or modifications may require that portions of the solar array or other equipment be temporarily moved. The DEP will consult with the Solar Entities to coordinate the timing and minimize the duration of the repairs or modifications. Any lost revenue will not be paid by DEP. The DEP will not use any funds to compensate anyone for lost revenue or any financial damages from doing maintenance or modifications that DEP deems, in its sole discretion, to maintain the integrity of the remedy. Any actual damage to the Facility operator's equipment caused by DEP's contractors will be addressed by the DEP's contractor's insurance first, before any claim is submitted to the State.

25. The Solar Entities agree that since the intended use of this Property will result in additional loading on the landfill cap, the Solar Entities shall evaluate any potential structural impacts to the cap and alter the construction plan to address loading impacts. The DEP reserves the right to pursue all liable parties, for all costs, should DEP incur costs for repairing structural damage to the landfill cap or other structures should the Solar Entities fail to do so.

26. Within 60 days of taking ownership of the Property, GMRS shall file a deed notice for this Property in accordance with N.J.A.C. 7:26C-7.2 that restricts future use consistent with this Order, the remediation conducted at the Contaminated Site and remaining soil and ground water contamination.

Permits and Approvals

27. Within 60 days of filing the deed notice referenced above, the Solar Entities shall submit to DEP a soil Remedial Action Permit (RAP) application using DEP forms and procedures specified at N.J.A.C. 7:26C-7. The RAP shall include the O&M of the landfill cap, storm water facilities and existing fencing as required within Paragraphs 16 and 17 above. The Solar Entities shall pay all RAP fees and establish and maintain financial assurance in accordance with N.J.A.C. 7:26C-7.10 as part of the RAP. In addition to specified O&M activities, the RAP financial assurance shall include funding to restore the Property to pre-solar farm operations conditions acceptable to the DEP.

28. The Solar Entities shall apply for a SLDP that includes a certification by a New Jersey Registered Professional Engineer, subject to DEP review and approval, that the additional load of the solar panels and construction equipment will not cause any structural damage to the existing landfill cap or differential settlement. The Solar Entities, the tenant or operator shall apply for any other applicable permits required for the intended activities or request any EPA approvals, if necessary.

Operation & Maintenance Reporting

29. The Solar Entities shall prepare and submit biennial remedial action protectiveness certifications for the O&M activities specified in this Order pursuant to N.J.A.C. 7:26C-7.7 and as required in the RAP. This shall include, but not be limited to, activities performed to maintain the vegetative layer of the cap, reporting to the Department on the condition, repairs and maintenance of the landfill cap, fencing and storm water facilities and any other areas of the Contaminated Site impacted by the Facility operations. In addition, the biennial reporting under the RAP shall include the financial accounting referenced in Paragraph 31 below.

30. The Solar Entities agree to cooperate with the EPA and DEP during EPA's 5-year reviews.

Payments in Lieu of Lien satisfaction

31. In lieu of satisfying DEP's current lien on the Property for its past cleanup costs referenced in Paragraph 7 above, the Solar Entities shall remit to the DEP an annual payment of

\$70,000 (the “Annual Payment”) for the duration of the operational life of the Facility but for no less than 30 years. In addition, GMRS will annually pay down the prior amount of the New Jersey Spill Compensation Fund first-priority lien referenced in Paragraph 6 in the amount of \$874,871.53. Equal payments shall be made annually over a time period up to 30 years, or the full amount may be paid sooner. At a minimum, the additional annual payment will be \$29,162.38 for a 30-year term. The DEP agrees that it will reduce the lien amount by the amount paid every five years. After the first five years of payments, DEP will amend the New Jersey Spill Compensation Fund first-priority lien referenced in Paragraph 7 and reduce it to the original amount of \$874,871.53 minus the amount of payments remitted. Payments will be paid to the DEP, for use at the DEP’s sole discretion, and may include, but not limited to, funding any ongoing ground water sampling activities and any additional remedial activities both on and offsite. The above payments to the Department shall be by check made payable to the “Treasurer – State of New Jersey” and sent to the following address:

New Jersey Department of Environmental Protection
Site Remediation and Waste Management Program
Direct Billing and Cost Recovery Section
401 East State Street – Mail Code 401-06L
Trenton, NJ 08625

32. Upon execution of the ACO, the DEP will issue invoices for the Annual Payment on each anniversary date of the ACO. The Solar Entities and their successors and assigns shall pay the first \$70,000 payment within 30 days of the Facility achieving “commercial operation,” or within three years of GMRS acquiring title to the Property and executing this ACO, whichever is sooner. Subsequent payments shall be made annually thereafter on that anniversary date. For purposes of the ACO, “commercial operation” shall mean that the Facility is ready for regular, daily operation, has been interconnected to the electric grid and is capable of producing electrical energy to be delivered to the grid pursuant to an interconnection agreement with the local electric distribution company.

33. During the period of ownership by GMRS, the lien referenced in Paragraph 6 above shall remain in place unless resolved by the cost recovery payments referenced above, at which time the Department would issue a Warrant of Satisfaction. The Department agrees not to enforce the existing lien against the Solar Entities.

34. In consideration of compliance with the two Annual Payments referenced in Paragraph 31, the DEP will waive the second lien and forever release GMRS and its successors and assigns from any liability for the DEP’s past cleanup costs associated with the Contaminated Site and any future liability relative to on and off-site groundwater contamination emanating from the Property (as more particularly detailed above), provided all required payments are made timely. This release for ground water contamination does not extend to any new contamination or discharges caused by the Solar Entities and their successors and assigns or related onsite operations.

35. Should the Property be sold or otherwise transferred, the Department shall seek to resolve any remaining lien by either settling with, or enforcing the lien against, the potential new property owner or new property owner.

Sale or Subdivision of the Property

36. Should GMRS enter into a contract to sell the Property or any portion of the Property, GMRS shall ensure that the prospective purchaser is provided a copy of this Order. The Solar Entities shall comply with N.J.A.C. 7:26C-7.11 regarding transfer of a RAP for either a change in ownership or operator. The Solar Entities shall provide notice to the Department 120 days prior to any sale, transfer, or subdivision in addition to the notice referenced in Paragraph 42 below. This prior notice will allow the Department to cancel and/or refile a new lien to reflect actual remaining costs to be recovered and to begin to prepare an ACO Amendment referenced in Paragraph 42 below.

General Provisions

37. By operation of law, a Covenant Not to Sue pursuant to N.J.S.A. 58:10B-13.2 can be afforded to the Solar Entities only upon an LSRP's issuance of an entire site Response Action Outcome (RAO) for the Contaminated Site, or portions thereof, should the Solar Entities decide to obtain an RAO(s).

38. The Solar Entities shall make all submissions required by this Order to the Department at the address listed in N.J.A.C. 7:26C-1.6(a), except as otherwise directed or indicated in this Order.

39. The Solar Entities and DEP agree that this is a Site within the meaning of Subsection (t) of the Solar Act of 2012, as subsequently amended. The DEP agrees to review and process any solar credit applications transmitted to DEP from the NJ Board of Public Utilities as expeditiously as possible.

40. The DEP agrees to cooperate, to the extent practicable, with the Solar Entities' interactions with the EPA concerning this Contaminated Site.

41. The DEP will require its contractors to maintain insurance required by state procurement requirements (standard terms and conditions) and agree to have the Solar Entities listed as additional insureds. A copy of this insurance policy or certificate evidencing coverage and endorsement shall be provide to the Solar Entities five calendar days prior to conducting onsite activities.

42. Except as provided in this paragraph, the terms and conditions of this Order are not transferable to any other party. This Order is intended to benefit the Solar Entities, and is not intended to benefit any other operator, tenant, or owner related to this Property or the Contaminated Site. This ACO applies to the Property only for use as a solar farm. Any change of use of the Property from a solar farm will require a new ACO for the Contaminated Site to which the DEP must agree. Notwithstanding the foregoing, this ACO and the obligations contained herein may be assigned or transferred by the Solar Entities to a new property owner or new operator so long as the property remains used only as a solar farm. Any new property owner or new operator must execute an ACO Amendment provided by DEP in which the new property

owner or new operator expressly assumes all the terms, provisions, obligations, and liabilities set forth in this ACO. An executed copy of that ACO Amendment must be provided to the DEP a minimum of ten (10) business days prior to the effective date of the assignment or transfer. The content of the ACO Amendment provided by DEP will be limited to the name, address, contact information and description of the new property owner or new operator, an acknowledgement that the new property owner or new operator expressly accepts and assumes all terms, provisions, obligations, and liabilities set forth in this ACO, a copy which shall be provide as an attachment, and signatures for DEP and the new ordered party. The Solar Entities, or subsequent property owner or operator, shall provide the DEP written notice 60 days prior to the anticipated assignment or transfer date to prepare an ACO Amendment. Written notice shall be provided to the Assistant Director of the Publicly Funded Remediation Element – Site Remediation and Waste Management Program, DEP. The provisions of the Spill Act, SRRRA, SWMA and Brownfield Act shall govern the liability and responsibility of any potential future operator, tenant, or property owner.

43. In addition to the Department’s statutory and regulatory rights to enter and inspect the Property, without limitation, the Solar Entities agree to allow the EPA and the DEP and their authorized representatives access to the Property at all times for the purpose of monitoring the Solar Entities’ compliance with this Order and for the Department or EPA to perform any remediation necessary to protect the public health and safety and the environment, including but not limited to access to all monitoring wells and the gas collection system, access for landfill cap repairs, and any other O&M obligations that the Solar Entities fail to address or obligations that the DEP has retained pursuant to this Order. Prior to construction of the Facility, the DEP and the Solar Entities will work together to determine the access needed for both vehicles and persons to conduct routine ground water and air monitoring, access ground water monitoring and gas wells for repair or replacement and access to construct and operate a potential ground water treatment facility. The Solar Entities shall allow, and any lease agreement between the Solar Entities and any other entity shall allow, the Department and/or the EPA access to the Property, upon reasonable prior notice, in accordance with all laws, rules, regulations and ordinances, to sample and inspect the Property at the sole discretion of the Department or EPA. All access to the Property, to the extent practicable, shall minimize any disruption to the Facility, taking into account the timing, phasing and extent of work. The Solar Entities and DEP mutually agree the remedy implemented at this Property takes precedence over the Facility operation.

44. If the Solar Entities do not comply with any part of this Order, the Department may take any action it is authorized to take, including without limitation, issuing an administrative order, assessing a civil administrative penalty, filing of a summary action in the Superior Court of New Jersey pursuant to R. 4:67 and 4:70 to enforce this Order as a final order, enforcing this Order as an order issued by the Department pursuant to the Spill Act, issuing a Spill Act Directive, conducting the remediation itself and recovering three times the Department’s costs, and taking any other action. If it is determined by the Department that the Facility operation has created a condition that is not protective of public health and safety and the environment which is not being remedied in compliance with this Order, the Department may require removal of all, or portion, of the solar operation equipment.

45. Nothing in this Order shall be construed as an admission by the Solar Entities or a finding by the Department of any wrongdoing or liability on the part of the Solar Entities for the discharge of hazardous substances at or from the Property.

46. The Department reserves, and this Order is without prejudice to, all rights against the Solar Entities concerning all other matters.

47. Nothing in this Order shall be construed as precluding the Department from taking any action it deems necessary or appropriate to protect the public health and safety and the environment, and to enforce the environmental laws of the State of New Jersey.

48. Nothing in this Order shall restrict the ability of the Department to raise or make the above Findings in any other proceeding to the extent not inconsistent with this Order.

49. Nothing in this Order shall be construed to create any rights in, or grant any cause of action to, any person not a party to this Order.

50. The Solar Entities consent to entry of this Order and waive their right to request an administrative hearing concerning the terms of this Order pursuant to N.J.A.C. 7:26C-9.10.

51. The Solar Entities agree not to contest (a) the authority or jurisdiction of the Department to enter into this Order, and (b) the terms or conditions hereof, except that the Solar Entities do not waive their right to contest the interpretation or application of such terms and conditions in an action or proceeding brought by the Department to enforce this Order.

52. Each undersigned representative of the Solar Entities and the Department certifies that he or she is authorized to enter into this Order, and to execute and legally bind each party to this Order.

53. This Order may be signed and dated in any number of counterparts, each of which shall be an original, and such counterparts shall together be one and the same Order.

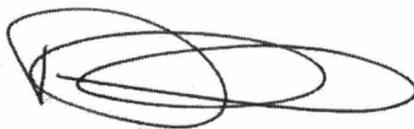
54. No modification or waiver of the Order shall be effective except upon written amendment of the Order duly executed by all the parties.

55. This Order shall be governed by and interpreted under the laws of the State of New Jersey.

56. The Effective Date of this Order shall be the date that both the Solar Entities and the Department have executed this Order.

(Signatures to follow on next page.)

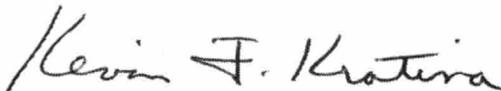
FOR THE NEW JERSEY SPILL COMPENSATION FUND:



Date: 6-9-20

By: _____
David E. Haymes, Administrator
New Jersey Spill Compensation Fund

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION



Date: 6-9-20

By: _____
Kevin F. Kratina, Assistant Director
Enforcement and Information Support Element

GOLD MINE ROAD SOLAR, LLC

Date: June 9 2020


By: _____
Gary R. Cicero, Sole Managing Member

MOUNT OLIVE SOLAR FARM, LLC

Date: June 9 2020


By: _____
Gary R. Cicero, Sole Managing Member