

**PIERCE COUNTY BOARD OF COMMISSIONERS
CALLED MEETING AGENDA
TUESDAY, MAY 21, 2019 AT 6:00 PM**

Commissioners in Attendance

Neal Bennett, Chairman
Mike Streat, District 2
Randy Dixon, District 3
David Lowman, District 4

Commissioner Not in Attendance

Harold Rozier, District 1

Staff in Attendance

Jason Rubenbauer, County Manager
Franklin Rozier, County Attorney
Tina White, Deputy County Clerk

CALL TO ORDER – Chairman Bennett called the meeting to order at 6:00 PM

INVOCATION/PLEDGE OF ALLEGIANCE – Commissioner David Lowman gave an invocation and led the pledge of allegiance.

GENERAL BUSINESS

1. Matt Carter, IDBA - Discussion on IDA request for MOU with Tyre Bridge Solar for personal property abatements. Mr. Carter shared the document and noted that there is a split down the middle for the 17 years. Anticipated that the solar will go in this year. Mr. Bennett asked about pgs 11 & 25. Mr Carter stated that page 11 is the actual breakdown. Commissioner Lowman asked the average life span of the project. Mr. Carter stated that the average is 20-25 years. Mr. Franklin Rozier, County Attorney made note that the numbers presented are the county and the Board of Education.

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this “**Agreement**”) is entered into as of the Effective Date set forth below by and between the **PIERCE COUNTY INDUSTRIAL DEVELOPMENT AND BUILDING AUTHORITY** (the “**Authority**”), a development authority and public body corporate and politic duly created by the Development Authorities Law, O.C.G.A. Section 36-62-1, *et seq.* (the “**Act**”), and **TYRE BRIDGE SOLAR, LLC** (the “**Company**”), a Georgia limited liability company (the Authority and the Company, each a “**Party**,” or collectively, the “**Parties**”). The **BOARD OF TAX ASSESSORS OF PIERCE COUNTY** (the “**Board of Assessors**”) and the **TAX COMMISSIONER OF PIERCE COUNTY** (the “**Tax Commissioner**”) are each executing an Acknowledgment hereof attached to this Agreement in order to acknowledge their respective agreements to the provisions hereof which are applicable to them, but they are not considered to be Parties.

THE PROJECT.

Description of the Project. The project (the “**Project**”) is a solar photovoltaic electricity generation system and consists of (i) one or more structures and related improvements (collectively, the “**Improvements**”), to be constructed by the Company on the approximately 1,000 acre site described in Section 1.5 below (the “**Site**”); and (ii)

equipment located on the Site (the “**Equipment**”). The Project will be owned by the Authority and leased to the Company under the Bond Lease (defined below).

Bond-Financed Sale-Leaseback Structure. In connection with the issuance of the Project Bonds (defined below), the Authority will become the owner of the Project as it then exists. The Authority will lease the Project to the Company under the Bond Lease, and will grant to the Company the Purchase Option (defined below).

Total Project Costs. “**Total Project Costs**” include all reasonable costs, fees and expenses incurred or paid by the Company in connection with the Project and the issuance of the Project Bonds (defined below). The Company will be responsible for any out-of-pocket costs of or related to the Project (including, without limitation, those related to any change orders or cost overruns) to the extent that Project Bond proceeds are not available or are not sufficient to pay such costs.

Closing. As used herein, the “**Closing**” is the event at which the Project Bonds are issued and the other transactions contemplated herein are consummated. References herein to a “**Closing Condition**” are to the optional right of a Party hereto, based on a Closing Condition, to exercise a right provided herein in its favor and to avoid the Closing and terminate this Agreement as provided in Sections 5.4 and 5.5, respectively, below. In connection with the issuance of the Project Bonds, the signatories hereto will also enter into an Economic Development Agreement (the “**EDA**”) to reflect any amendments hereto agreed to prior to Closing (or to reflect that there are no such amendments).

Site Description. The Company has acquired, through a long-term lease, a leasehold interest in the Site as more particularly described on Schedule 1.5 attached hereto and incorporated herein by reference. The Company shall be allowed to select another site in Pierce County, Georgia (the “**County**”) for the Project prior to Closing, provided if the Company does select another site for the location of the Project, it shall be a Closing Condition in favor of the Authority that the Authority is satisfied with any environmental site assessment(s) and the environmental condition of such alternative site on conditions similar to Section 1.6 below.

Environmental Phase I. The Company has caused or will cause, at its own expense, a Phase I environmental site assessment to be made upon the Site, and will provide the same to the Authority within sixty (60) days of the Effective Date of this Agreement. Upon receipt of such Phase I environmental assessment, the Authority shall provide the Company with a written statement of its material objections, if any, with respect to any new matter disclosed in said updated assessment within ten (10) days of receipt of the same. The Company shall have thirty (30) days to redress any such objections, if the Company chooses to so remedy any objections, or if the Company fails to satisfy such objections, then, at the option of the Authority, evidenced by written notice to the Company, the Authority may, as its sole and exclusive remedy, terminate this Agreement as provided in Section 5.4, below. The Authority’s and the Company’s satisfaction with a Phase I environmental assessment conducted pursuant to this paragraph shall be a Closing Condition in favor of the Authority and the Company.

Construction of the Improvements and Installation of the Equipment.

Design. The Company shall be responsible for the design of the Improvements and the selection of the Equipment.

Utilities. The Company shall be responsible for the delivery of adequate water, sewer, natural gas, and electricity to the Site, if such facilities are required for the solar facility. The Company’s ability to acquire governmental approvals or permits to allow for delivery of adequate water, sewer facilities, natural gas or electricity by acceptable providers, or in quantities or at pressures which are acceptable to the Company in its reasonable discretion, shall each be a Closing Condition in favor of the Company.

Construction, Generally. The Company will be responsible for the construction of the Improvements, at the Company’s own expense. Without limitation, the Company will select the contractor (“**Contractor**”) for such construction and enter into an agreement, as principal and not as agent of the Authority, with the Contractor for the construction of the Improvements. The Improvements shall be constructed in compliance with applicable laws, including applicable zoning laws, building codes,

environmental laws and other restrictions, unless the failure to be in compliance with such laws would not have a material adverse effect on the Project.

Acquisition and Installation of Equipment. The Company will be responsible for the acquisition and installation of the Equipment, including, without limitation, payment of the costs thereof. The Bond Lease will provide for the Company to convey title to the Equipment to the Authority from time to time by one or more bills of sale as the items of the Equipment are acquired and installed at the Site.

Indemnity by the Company. The Company shall indemnify, hold harmless and defend the Authority and its members, officers, employees and representatives from and against any and all loss, liabilities and claims (including, without limitation, liens and encumbrances resulting from construction and installation activities) that may arise out of or relate to: (a) any act or omission by or attributable to the Company or the Contractor (including, without limitation, the acts or omissions of their respective vendors, contractors or subcontractors, agents, employees or representatives) related to the Project; or (b) this transaction, including the Project Bonds or the issuance thereof, or the ownership or operation of the Project. The indemnity contained in this Section 1.7.5 shall not apply to any claim, loss or liability which is the result of the gross negligence or willful misconduct of the indemnitee. Said indemnity shall survive the expiration or earlier termination of this Agreement, but at Closing shall be superseded by the indemnities in the Definitive Documents, provided that such shall not affect any accrued liabilities under the indemnities contained herein unless expressly provided otherwise in the Definitive Documents. The indemnities set forth above specifically extend to, but are not limited to, governmental or other claims relating to any actual or alleged violation of any federal, state and local laws, rules, regulations, ordinances, programs, permits, guidance, orders, and consent decrees relating to health, safety, and environmental matters, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Toxic Substances Control Act, as amended, the Clean Water Act, as amended, the Clean Air Act, as amended, the Superfund Amendments and Reauthorization Act of 1986, as amended, state and federal superlien and environmental cleanup programs and laws, U.S. Environmental Protection Agency regulations, and Georgia. Environmental Protection Division rules regardless of whether or not any such violation relates to any period prior to the acquisition of the Project by the Authority or its acquisition theretofore by the Company.

Force Majeure. For purposes of this Agreement generally, “*force majeure*” means fires, floods, inclement weather, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the applicable Party’s reasonable control. Such term shall not include any event or circumstance that could have been prevented, overcome, or remedied in whole or in part by the Party through the exercise of reasonable diligence and due care, nor shall such term include the unavailability of funds. Where this Agreement expressly provides that a Party’s obligations are subject to *force majeure*, then delay or non-performance on the part of such Party shall be excused upon the occurrence and during the continuance of such event of *force majeure*, provided that such Party promptly gives the other Party written notice of the occurrence and abatement of such event of *force majeure*, and subject to any express provisions hereof dealing with such event of *force majeure*. In no event shall *force majeure* excuse any payment obligation.

Permitted Exceptions. Without limitation, the Company shall keep the Project free and clear of all liens and encumbrances attributable to, and under the control of, the Company except for Permitted Exceptions and shall in any event indemnify, hold harmless and defend the Authority and its respective members, officers, employees and representatives from any claim, liability or loss arising out of or related to any lien or encumbrance. Said indemnity shall survive the expiration or earlier termination of this Agreement. As used herein, “**Permitted Exceptions**” shall be defined as any liens, encumbrances or exceptions contained on Schedule 1.5 hereto or otherwise specified in this Agreement as being acceptable, or defined as such in the Bond Lease. The Authority shall not voluntarily place any lien, claim or encumbrance on the Project (other than in connection with enforcement of its own rights), or voluntarily transfer any interest in the Project to any third party, except in each instance as approved by the Company or contemplated herein.

1.8 Decommissioning, Removal and Restoration. The Company agrees that upon the end of the economic useful life of the Improvements and Equipment or any replacements thereof, or, if earlier, upon the permanent removal of the Project from service, the Company will, or will cause its successors and assigns to, dismantle, remove, and dispose of such Improvements and Equipment in accordance with any applicable governmental laws or regulations, and take such steps as may be reasonably necessary to avoid contamination of the environment by the materials comprising the Equipment, and, if the Site is not used for another electrical generating facility, to the extent allowed by its lease of the Site, restore the Site to the extent necessary to comply with any applicable governmental laws or regulations, including, but not limited to, laws or regulations relating to land use, zoning, revegetation, drainage or environmental conditions applicable to the Project. The Company's obligations under this Section shall survive the expiration or earlier termination of this Agreement, but at Closing shall be superseded by substantially similar requirements in the Bond Lease.

FINANCING OF THE PROJECT.

Project Bonds. In order to establish the bond-financed sale-leaseback structure that is necessary for the provision of certain of the incentives contemplated herein, including, without limitation, *ad valorem* property tax savings for the Project, the Authority will issue the Authority's revenue bonds (the "**Project Bonds**") to the Company or an Affiliate (as defined in Section 2.10.1 below) of the Company. The Authority will acquire legal title to the Project. The Bond Lease and related Purchase Option will evidence the Company's beneficial ownership of the Project. The Authority and the Company will then enter into the Bond Lease described below.

Maximum Principal Amount of Project Bonds. Without limitation, the principal amount of the Project Bonds shall in the aggregate accommodate Total Project Costs for the Project. Such accommodation shall be made through structuring the Project Bonds as draw-down bonds in an appropriate maximum principal amount. The maximum principal amount of the Project Bonds to be issued is estimated at \$140,000,000.

Transaction Costs. The Company shall be responsible for all reasonable out-of-pocket transactional costs of the issuance of the Project Bonds, and other matters related hereto, provided that such costs shall be provided in writing to the Company prior to Closing and be subject to the Company's approval, which shall not be unreasonably withheld. Subject to any applicable limits of federal tax law, cash proceeds of the Project Bonds, if any are available for such purpose, may be used to pay such costs or to reimburse the Company for transaction costs previously paid by it. Such transaction costs include, without limitation: (i) reasonable legal fees and disbursements of Bond Counsel related to the closing of the issuance of the Project Bonds and the preparation and distribution of this Agreement and of transcripts; (ii) the reasonable fees and disbursements of the Authority's Issuer's Counsel related to the transaction; (iii) the court costs relating to validation of the Project Bonds and recording and filing fees; (iv) the Authority's financing fee for the issuance of the Project Bonds payable one-time at Closing in the amount of 1/8th of 1% of the maximum principal amount of the Project Bonds; and (v) an annual fee payable to the Authority for its recordkeeping and compliance activities not to exceed 1/32nd of 1% of the outstanding balance of the Bonds, to be billed by the Authority as of each anniversary of the date of issuance and due thirty (30) days thereafter. In connection with its execution of this Agreement, the Company will be provided with a cost of issuance budget for the Project Bonds for the Company's review and approval.

Tax Status of the Project Bonds. The interest on Project Bonds issued to the Company or an Affiliate will not be exempt from federal income taxation. Whether or not the interest on any other series of the Project Bonds will be exempt from federal income taxation shall be as determined by the federal income tax law.

Roles of Counsel. Daniel Lawton Bennett Jr., Esq., Blackshear, Georgia, shall serve as Issuer's Counsel to the Authority and Seyfarth Shaw LLP, Atlanta, Georgia, Bond Counsel to the Authority, shall serve as Bond Counsel. The Company's Counsel shall be McGuireWoods LLP or such other counsel as the Company may reasonably select.

Repayment of the Project Bonds. The Company shall be responsible for the repayment of the Project Bonds. Without limitation, the Project Bonds shall not be a general obligation of the Authority, but shall be a special and limited obligation payable solely from the payments received under the Bond Lease and other pledged security. Neither the Authority, the County, the State of Georgia (the "**State**") nor any other public body shall have any obligation or liability for repayment of the Project Bonds.

The Bond Lease. The Authority and the Company shall enter into a lease (the “**Bond Lease**”) at the Closing. Pursuant to the Bond Lease, the Authority will lease the Project to the Company. The Bond Lease shall contain terms and provisions substantially of the type normally included in bond leases between governmental “conduit” bond issuers and users of bond-financed property. The Bond Lease will be a triple net type lease.

Purchase Option. Subject to the provisions of any bond purchase agreement related to the Project Bonds, the Authority, in the Bond Lease or by separate instrument, shall grant the Company the option to purchase the Project (the “**Purchase Option**”), to the extent that the Authority holds title thereto at the time, exercisable for (i) an option exercise price of \$10; (ii) plus any other amounts due to the Authority that must be paid at such time, including, without limitation, Community Recovery Payments (defined below) then past due pursuant to the Community Incentives Schedule (defined below); and (iii) if all of the Project Bonds have not theretofore been retired, the Company shall cause all of the Project Bonds to be retired or cancelled. Payment of the amounts so required is a condition to the closing under such purchase option. In the event the Company exercises the purchase option, any provisions of this Agreement that are intended to survive the Closing shall survive the Company’s exercise of the Purchase Option unless otherwise agreed to in writing by the Parties at the time of such exercise.

Definitive Documents. The term “**Definitive Documents**” means and includes the Project Bonds, the Bond Lease, the Purchase Option, the EDA, the above-mentioned bond purchase agreement, a deed to secure debt and security agreement and any other related documents necessary to implement the transaction described herein. The Definitive Documents will permit the Company to pledge its interest in the Project as collateral for third party financing of the Project, and the Authority will join as is necessary in such pledge, provided that: (a) such pledge is non-recourse to the Authority (except as to its interest in the Project); (b) the documentation of same must be reasonably satisfactory to the Authority and its counsel (including, without limitation, not materially adversely affecting the indemnification and other rights of the Authority); and (c) such transaction must be without liability (except as to its interest in the Project) or expense to the Authority, including payment by the Company of the Authority’s counsel fees, including any fees incurred in connection with the review of any third party financing documents, and disbursements in connection therewith. The Definitive Documents shall be prepared by Bond Counsel and shall be subject to the approval of the Authority, the Company, the purchaser of the Project Bonds and their respective legal counsel. The Parties agree to negotiate in good faith to establish the terms and conditions to be included in the Definitive Documents. It shall be a Closing Condition in favor of each of the Company and the Authority that they reach an agreement on such terms and conditions.

Transfers.

Transfer of this Agreement. All rights and benefits of the Company under this Agreement and under the Authority’s resolution authorizing this Agreement may be transferred and assigned by the Company, in whole or in part, to: (a) any Affiliate of the Company or (b) with the written approval of the Authority, which approval shall not be unreasonably withheld, conditioned or delayed after adequate disclosure of the financial condition of the proposed transferee, to any one or more persons or entities which propose to acquire the Project, in either case with the same effect as if such Affiliate or such persons or entities were named as the “Company” in this Agreement and in the Authority’s resolution authorizing this Agreement. Unless otherwise agreed in writing by the Authority the assignment of the Company’s rights shall not release the Company from its obligations for costs and indemnification incurred or arising hereunder prior to such assignment, and following any such assignment, such assignee shall be solely liable for costs and indemnification hereunder. As used herein, “**Affiliate**” means any person or entity (as used herein “entity” includes, without limitation, any public body) that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a specified person or entity. As used herein, the term “control” of a person or entity means the possession, directly or indirectly, of the power: (A) to vote 10% or more of the voting securities of such person or entity (on a fully diluted basis) having ordinary power to vote in the election of the governing body of such person or entity, or (B) to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise. Notwithstanding anything in this Section 2.10 to the contrary, the Authority acknowledges and agrees that any transfer or assignment of any membership interests in the Company to an assignee or transferee with a net worth that is reasonably acceptable to the Authority and whose ultimate parent is an integrated energy company in the business of owning and operating power generation facilities

in the United States, with a Standard & Poor's credit rating at the time of such transfer or assignment of A- or greater, shall not constitute a transfer or an assignment of this Agreement for purposes of this Section 2.10

Transfer of the Project, the Bond Lease and the Other Definitive Documents. Except as expressly provided in this Agreement, the Company may not, without the prior written consent of the Authority: (a) transfer the Project; or (b) assign its interests and rights under the Bond Lease or other Definitive Documents or sublease any part of the Project. However, the Company may transfer or sublease the Project to an Affiliate of the Company, or as otherwise may be provided herein or in the Definitive Documents. The Company, as tenant may, subject to approval by the Authority (which approval shall not be unreasonably withheld, delayed or conditioned), as landlord sublease the Project for a term which does not extend beyond the term of the Bond Lease minus one day, provided that the sublease is expressly subject and subordinate to the Bond Lease, and that the Company is not released from its obligations under the Bond Lease. Unless otherwise agreed in writing by the Authority, no transfer and assignment shall relieve the Company from primary liability for any of its obligations incurred or arising hereunder prior to such transfer and assignment, and in the event of any such transfer and assignment, the transferee or the assignee (as the case may be) shall be solely liable for payment of the Basic Rent and Additional Rent and for the payment, performance, and observance of the other obligations and agreements on the Company's part herein provided to be performed and observed by the Company.

Sales and Use Taxes.

2.10.3.1. Payments in Lieu of Sales Tax. If for any year during the term of Bond Lease Georgia law prohibits, excludes, exempts or otherwise does not impose local sales and use taxes (in whole or in part) on machinery, equipment, industrial materials, and/or repair or replacement parts which are necessary and integral to the generation of electricity at the Project, then the Company shall pay to the County for each such year a payment equal to the gross purchase price (on a fully-delivered basis, including therein, without limitation, the costs of transporting such machinery, equipment, industrial materials, and/or repair or replacement parts to the Project) of all machinery, equipment, industrial materials, and/or repair or replacement parts which are necessary and integral to the generation of electricity at the Project and which are purchased during such year multiplied by the sum of all local sales and use taxes, including all County sales and use tax rates and any applicable municipal sales and use tax rates, as then in effect, provided, however, that in no event shall the amount payable in any year by the Company under this Section 2.10.3.1 exceed an amount equal to 2 percent multiplied by the sum of the gross purchase price of all machinery, equipment, industrial materials, and/or repair or replacement parts which are necessary and integral to the generation of electricity at the Project purchased by the Company during such year. For such purposes, "purchase" shall include the concept of "use" as used in Georgia's sales and use tax law. Such additional payments with respect to any year shall be due by January 31 of the succeeding year.

2.10.3.2. Quarterly Reports. On or before the 20th day of each January, April, July and October during the term of the Bond Lease, the Company shall report to the Authority and the County the dollar amount based on delivered cost of all machinery, equipment, industrial materials, and/or repair or replacement parts necessary and integral to the generation of electricity at the Project in the County which are purchased during the immediately preceding three calendar months. Such reports shall be in such detail and accompanied by such documentation as the Authority may reasonably require, including, but not limited to, any invoices, receipts and sales and use tax applications, returns, reports or certificates filed with or granted by the Georgia Department of Revenue. The Company further agrees to keep such records as may be necessary to allow the Authority to determine the amount of sales and use taxes due to the County during the term of the Bond Lease. The Company shall provide to the Authority and the County such documentation supporting any determination hereunder as the Authority may from time to time reasonably request. If any audit conducted hereunder results in a determination that less than all of the sales and use taxes due to the County have been paid, the Company agrees to make a payment to the County in the amount of such deficiency within 30 days of such determination. In the event of any dispute regarding such determination, the Authority shall have the right to audit or have audited the

Company's books and records, and in the event that there is a discrepancy in the County's favor amounting to more than 5% of the amount in dispute, the Company shall pay all reasonable costs and expenses incurred by the Authority in connection with such audit. In addition, if the Company fails to timely provide any report required under this Section 2.10.3.2, the Company agrees to pay an administrative fee of 5% of the sales and use tax that is payable to the County based on the amount of the machinery, equipment, industrial materials, and repair and replacement parts disclosed for such report if the failure does not exceed 30 days, and a like administrative fee is imposed for each additional 30-day period or fraction thereof, up to a maximum of 25%.

INCENTIVES TO BE PROVIDED.

Purpose of Incentives. In order to induce the Company to locate the Project at the Site, the following economic inducements will be provided for the Project by the Authority and other entities, as applicable.

Ad Valorem Tax Savings.

Basis for Savings. Under the Act, under which the Authority was created and exists, the Authority pays no tax on its interest in the property comprising the Project. The Parties agree that the Bond Lease shall be structured so that the Company's leasehold interest in the Project is a mere usufruct, or, as to personal property, a nontaxable bailment for hire, and not a taxable estate for years. Thus, while the Bond Lease is in effect, the Company shall pay no actual taxes on its leasehold interest in the Project. However, in order to prevent the taxing authorities from being deprived of revenues relating to the Project during the period title thereto is in the Authority, the Company agrees that in consideration of the Bond Lease structure and other benefits, it shall make payments in lieu of taxes ("PILOT") as provided on Schedule 3.2.1 attached hereto and incorporated herein by reference (the "**Savings Schedule**"). For purposes of calculating the payments in lieu of taxes, the cost of the Project shall not be less than \$105,000,000 before depreciation and assessment. Such payments in lieu of taxes will commence in "Year 1." (as defined in Section 4.1 hereof). Prior to Year 1, no *ad valorem* taxes or payments in lieu of taxes shall be payable by the Company. The Company shall pay normal *ad valorem* property taxes with respect to property it owns which is not titled to the Authority in connection with the issue of the Project Bonds.

Reversion to Normal Taxability. If the option to purchase the Project to the extent it is owned by the Authority is exercised upon termination of the Bond Lease or earlier, in whole or in part, or if the Bond Lease is otherwise terminated or expires, the Project will be taxable according to normal *ad valorem* property taxation rules that are applicable to privately-owned property.

Procedures.

(a) In order to determine the amount of payments in lieu of taxes payable pursuant to this Agreement, at the time property tax returns are due in the County, the Company shall file a report with the Board of Assessors of the property comprising the Project and its value, in the same format and in the same manner as a property tax return. The Company shall indicate on its reports those items of property that have been conveyed to the Authority and are part of the Project and subject to the provisions of this Agreement. The Board of Assessors shall determine the assessed value of the Project as though legal title to it were held by the Company and shall notify the Tax Commissioner thereof, who shall calculate the amount of payments in lieu of taxes payable by the Company with respect thereto pursuant to this Agreement, and shall invoice the Company therefor, with a copy made available to the Authority. Such public bodies shall coordinate such procedures with general procedures applicable to the payment of normal property taxes, such that, for example, the Tax Commissioner shall mail such invoice at the time tax bills are mailed for the relevant tax year. The Company shall pay by separate check (or other acceptable form of payment) to the Tax Commissioner on or before the date set for the payment of *ad valorem* property taxes in the County generally, an amount equal to the payment in lieu of taxes due for such year as so calculated. In the event the Company is required to pay *ad valorem* property taxes on its interest in the Project, the Company shall be entitled to credit

such *ad valorem* property taxes against any payments in lieu of taxes due pursuant to this Agreement.

(b) Should the Company fail to make payments in lieu of taxes required by this Agreement at the times and in the manner provided for in this Agreement, the Company shall be obligated to pay to the Tax Commissioner, in addition to such payment in lieu of taxes an amount that shall be equal to the penalties and interest that would be assessed against the Company if such payment in lieu of taxes were delinquent *ad valorem* taxes. The Tax Commissioner shall notify the Company of any such penalties and interest, and will make available a copy to the Authority. The Board of Assessors and the Tax Commissioner shall have all of the rights and remedies related to payments in lieu of taxes, interest and penalties, as they would have in the case of delinquent *ad valorem* taxes, and the Company agrees upon request of the Board of Assessors or the Tax Commissioner to grant any security lien or security interest necessary such that the taxing authorities have the equivalent of tax liens for such purposes, subordinate to any prior security titles or security interests permitted elsewhere herein, provided that such subordinate lien or security interest is allowed by the terms of the instruments governing such prior security titles or security interests. Likewise, the Company shall have all of the same rights and remedies as it would have in the case of a dispute over *ad valorem* property taxes, including, without limitation, the right to dispute the valuation used by the Board of Assessors. The obligation to make payments in lieu of taxes, and any related interest and penalties, shall be obligations to the Tax Commissioner, who upon receipt shall disburse them as though they were payments of normal taxes, or any related interest and penalties, as appropriate. If the Board of Assessors determines that the Company has *ad valorem* tax liability for any tax year for the Project, the Company shall not be obligated to pay any sums as payments in lieu of taxes for said tax year; in such case, to the extent such payments in lieu of taxes for the given tax year have already been paid, the Company shall be entitled to apply for refund of payments in lieu of the taxes otherwise levied and paid to the Tax Commissioner for the subject tax year in accordance with O.C.G.A. §§ 48-5-241 and 48-5-380. Notwithstanding any other provision of this Agreement, any Community Recovery Payments due hereunder (defined below) shall always be paid to the Authority directly by the Company in accordance with the terms of this Agreement.

Security for PILOTs. To secure the Company’s continuing obligation to make the PILOTs set forth in this Section 3.2, at Closing, the Company shall provide a surety bond, issued by a rated insurer or surety company established in the provision of such bonds (the “**Surety Company**”), obligating the Surety Company to make the annual PILOTs required hereunder in the event the Company shall fail to do so (the “**Surety Bond**”). The form of the Surety Bond shall be substantially the same as set forth in Schedule 3.2.4, below. The Surety Bond shall be issued on behalf of the Company or its affiliate, be issued to the Tax Commissioner, and be payable by the Surety Company upon thirty (30) day’s notice by the Tax Commissioner upon failure of the Company to make any such PILOTs as required under this Agreement. The Surety Bond shall only secure the PILOTs set forth in this Agreement which represent a reduced Payment Percentage in Years 1 through 7 as set forth in Schedule 3.2.1. The annual amount to be secured and/or paid under the Surety Bond shall be calculated based upon the 2018 millage rate as follows and per the following:

- First: $[\text{Minimum Required Capital Investment as shown in } \underline{\text{Schedule 4}}] \times [\text{Standard DOR Applicable Depreciation}] = \text{Depreciated Value}$
- Second: $[\text{Depreciated Value}] \times 40\% = \text{Normal Taxable Value}$
- Third: $[\text{Normal Taxable Value}] \times [\text{Applicable Payment Percentage for Year as shown in } \underline{\text{Schedule 3.2.1}}] = \text{Special Taxable Value}$
- Fourth: $[\text{Special Taxable Value}] \times 27.26 \text{ mills} = \text{Secured PILOT For Given Year}$

Example 1: For Year 2, the calculation to determine the PILOT Payment to be secured under the Surety Bond would be:

$$\$105,000,000 \times 91\% = \$95,550,000$$

$$\$95,550,000 \times 40\% = \$38,220,000$$

$$\$38,220,000 \times 50\% = \$19,110,000$$

$$\$19,110,000 \times 27.26 \text{ mills} = \$520,939 \text{ (Secured PILOT for Year 2)}$$

Example 2: For Year 3, the calculation to determine the PILOT Payment to be secured under the Surety Bond would be:

$$\$105,000,000 \times 87\% = \$91,350,000$$

$$\$91,350,000 \times 40\% = \$36,540,000$$

$$\$36,540,000 \times 50\% = \$18,270,000$$

$$\$18,270,000 \times 27.26 \text{ mills} = \$498,040 \text{ (Secured PILOT for Year 3)}$$

All of the PILOTs to be secured and payable under the Surety Bond are calculated pursuant to the above formula as set forth in the following table:

PILOT AMOUNTS TO BE SECURED UNDER SURETY BOND					
Year	Min. Capital Investment	Depreciated Value	Normal Taxable Value	Special Taxable Value	Secured PILOT
1	\$ 105,000,000	\$99,750,000	\$ 39,900,000	\$ 19,950,000	\$ 543,837
2	\$ 105,000,000	\$95,550,000	\$ 38,220,000	\$ 19,110,000	\$ 520,939
3	\$ 105,000,000	\$91,350,000	\$ 36,540,000	\$ 18,270,000	\$ 498,040
4	\$ 105,000,000	\$86,100,000	\$ 34,440,000	\$ 17,220,000	\$ 469,417
5	\$ 105,000,000	\$82,950,000	\$ 33,180,000	\$ 16,590,000	\$ 452,243
6	\$ 105,000,000	\$78,750,000	\$ 31,500,000	\$ 15,750,000	\$ 429,345
7	\$ 105,000,000	\$73,500,000	\$ 29,400,000	\$ 14,700,000	\$ 400,722
8	\$ 105,000,000	\$66,150,000	\$ 26,460,000	\$ 13,230,000	\$ 360,650
9	\$ 105,000,000	\$59,850,000	\$ 23,940,000	\$ 11,970,000	\$ 326,302
10	\$ 105,000,000	\$54,600,000	\$ 21,840,000	\$ 10,920,000	\$ 297,679
11	\$ 105,000,000	\$49,350,000	\$ 19,740,000	\$ 9,870,000	\$ 269,056

12	\$ 105,000,000	\$43,050,000	\$ 17,220,000	\$ 8,610,000	\$ 234,709
13	\$ 105,000,000	\$36,750,000	\$ 14,700,000	\$ 7,350,000	\$ 200,361
14	\$ 105,000,000	\$32,550,000	\$ 13,020,000	\$ 6,510,000	\$ 177,463
15	\$ 105,000,000	\$30,450,000	\$ 12,180,000	\$ 6,090,000	\$ 166,013
16	\$ 105,000,000	\$29,400,000	\$ 11,760,000	\$ 5,880,000	\$ 160,289
17	\$ 105,000,000	\$21,000,000	\$ 8,400,000	\$ 4,200,000	\$ 114,492
Total					\$ 5,346,776

The amounts calculated above are for purposes of convenience in determining the amount of and liability for Secured PILOTs payable under the Surety Bond, only; the actual amount of PILOTs may be more in any given year and will be determined each year during this Agreement by the Tax Commissioner based upon actual investment and millage each year in accordance with Section 3.2.1, 3.2.2 and 3.2.3. Notwithstanding any provision of this Agreement to the contrary, neither the Surety Company nor the Company shall be liable to remit any payment under the Surety Bond, PILOT or Community Recovery Payment (defined below) under this Agreement in the event that the Project is not constructed as a result of the Company being unable to obtain from the County or the State, without unreasonable restriction, any building plan or plat approval, zoning or conditional use permit, or electrical or construction permit, which the Company determines in its discretion is required for the lawful construction and/or operation of the Project.

Board of Assessors. The provisions of this Agreement relative to the assessment and taxability of the Project for *ad valorem* property tax purposes shall be the obligation and responsibility of the Board of Assessors (and not of the Authority or the County). By its Acknowledgement, the Board of Assessors is joining in this Agreement to acknowledge that this Agreement is consistent with applicable requirements and that the Board of Assessors intends and agrees to classify, for taxation purposes, the Company's interest in the Project under the Bond Lease as contemplated in this Agreement.

Intergovernmental Agreement. The Agreement shall also constitute an intergovernmental agreement under Georgia Constitution Art. IX, Sec. III, Para. I between and among the Authority and the Board of Assessors. Such intergovernmental agreement is subject to the 50-year term limit contained in such provision of the Georgia Constitution, but shall expire earlier upon its complete performance. By its Acknowledgment hereof, the Board of Assessors agrees to all of the provisions hereof respectively applicable to it. The Tax Commissioner is not a party and only acknowledges he will discharge his duties described hereunder as required by law.

JOBS GOALS.

Inducement. The Company agrees to locate the Project at the Site, provided, that nothing herein contained shall obligate the Company to create any particular level of jobs. Rather, the Company's responsibilities regarding such matters shall be governed exclusively by the provisions hereof relating to Community Recovery Payments (provided for in Section 4.7 below). The Company's agreement to locate the Project at the Site is based, in part, on the incentives being provided by the Authority in connection with the Bond Lease, this Agreement and the EDA. The Company shall be allowed to select another site in the County for the Project as provided in Section 1.5 herein. Such incentives are being provided to induce the Company to locate the Project at the Site, with attendant investment and job creation on the part of the Company, all of which constitutes valuable, non-cash consideration to the Authority and the citizens of the County and of the State. The parties acknowledge that the incentives provided for in this Agreement serve a public purpose through the capital investment and job creation represented by the Project. The parties further acknowledge that the cost/benefit requirements applicable to the Authority in the course of providing such incentives dictate that some measure of recovery must be applied in the event that the anticipated jobs do not for any reason fully materialize. For all purposes of this Agreement, "**Year 1**" means the calendar year following the calendar year in which Company commences solar generation and sale of electricity from the Project, but not later

than the calendar year 2022. For purposes of the determination of Year 1, “*force majeure*” shall have the same meaning provided in Section 1.7.6 of this Agreement. Notwithstanding the provisions of this Agreement set forth above, if the Company certifies to the Authority in writing prior to 2022, that an event of *force majeure* has prevented the Company from being able to commence solar generation and sale of electricity from the Project, then the effect of *force majeure* for such purposes shall be that the determination of Year 1 shall mean the calendar year following 2022. The foregoing notwithstanding, the Company may not claim the benefit of *force majeure* more than once.

Community Jobs Goal. For the period prescribed as the Performance Period on the Community Goals Table (“**Community Goals Table**”) included on the “**Community Incentives Schedule**” attached as Schedule 4 hereto and incorporated herein by reference (such period, the “**Performance Period**”), the Company shall have the goal of providing not fewer than the number of full-time jobs or equivalents at the Project specified on the Community Goals Table as the applicable Community Jobs Goal (the goal applicable in any particular year being the “**Community Jobs Goal**” for such year). For purposes of this Agreement, the number of “full-time jobs” shall be defined and determined, from time to time, as provided on Schedule 4.2 attached hereto and incorporated herein by reference. Schedule 4.2 also determines how the number of full-time jobs shall be calculated.

Community Jobs Shortfall Percentage. If, for any year in the Performance Period, the number of full-time jobs or equivalents at the Project is less than the Community Jobs Goal that is applicable to such year, the actual number of such full-time jobs shall be subtracted from the applicable Community Jobs Goal to obtain the “**Community Jobs Shortfall**.” The number of such full-time jobs or equivalents constituting the Community Jobs Shortfall shall be divided by the applicable Community Jobs Goal and converted to a percentage to determine the “**Community Jobs Shortfall Percentage**.” If there is no shortfall for a year, then for such year the Community Jobs Shortfall Percentage shall be 0%.

Community Investment Goal. For purposes of this Agreement, the Company shall have the goal of investing in the Project in each year of the Performance Period the amount for such year specified on the Community Goals Table as the applicable Community Investment Goal (the goal applicable in any particular year, the “**Community Investment Goal**” and, together with the Community Jobs Goal, the “**Goals**” and each a “**Goal**”). Schedule 4.4 attached hereto and incorporated herein by reference provides rules that shall apply to satisfying the Community Investment Goal.

Community Investment Shortfall Percentage. If, for any year in the Performance Period, the cumulative amount of capital investment by the Company or its Affiliates in the Project is less than the Community Investment Goal that is applicable to such year, the actual amount of such investment shall be subtracted from the applicable Community Investment Goal to obtain the “**Community Investment Shortfall**.” The amount of investment constituting the Community Investment Shortfall shall be divided by the applicable Community Investment Goal and converted to a percentage to determine the “**Community Investment Shortfall Percentage**.” If there is no shortfall for a year, then for such year the Community Investment Shortfall Percentage shall be 0%.

Annual Report. On or before February 1 of each year following a calendar year that is in the Performance Period, the Company shall provide to the Authority an annual report for the preceding calendar year which shall include a Community Jobs Report and a Community Investment Report, each as described below (each an “**Annual Report**”). Each Annual Report shall be in substantially the form of Schedule 4.6 attached hereto and incorporated herein by reference, as revised for the matters being reported.

Community Jobs Report. The Community Jobs Report shall contain a statement as to the full-time jobs or equivalents at the Project for the immediately preceding year (each, an “**Annual Report Year**”) using the methodology provided above, and shall provide such supporting extracts from the Company’s employment records (consistent with the privacy rights of its employees) as the Authority shall reasonably request.

Community Investment Report. The Community Investment Report shall contain a statement as to the Company’s or its Affiliates’ investment in the Project for the subject Annual Report Year, using the methodology prescribed herein.

Inspection Rights. No more often than once per year, the Authority and its agents shall be permitted to inspect employment records of the Company, specifically related to the Project, to verify such information during normal business hours and upon reasonable notice. The Company may reasonably redact such records to protect the confidentiality of the Company, its employees or its customers.

Project Shortfall Percentages. Upon receipt of an Annual Report and any inspection authorized hereunder, the Authority shall confirm the Company's calculation of the "Project Shortfall Percentage." The Project Shortfall Percentage shall equal the amount obtained by taking the sum of any Community Jobs Shortfall Percentage and any Community Investment Shortfall Percentage and dividing the resulting sum by two (2).

Community Recovery Payments. If there is a Project Shortfall Percentage, then the Company shall calculate in the Annual Report the amount of the "**Community Recovery Payments,**" and the Company shall pay the same to the Tax Commissioner, all pursuant to and as defined in the Community Incentives Schedule. If there is a Project Shortfall Percentage in a given year, the Community Recovery Payment shall be equal to the Project Shortfall Percentage multiplied by the applicable Recovery Value in Schedule 4, except that if the Project Shortfall Percentage is less than 20%, there shall be no Community Recovery Payment due; provided that, however, in no event shall the actual PILOT payments due in any year when added to the amount of any required Community Recovery Payment in any year be less than the calculated annual PILOT for the given year secured under the Surety Bond in Section 3.2.4

Failure to File Report and Make Required Payments. If the Company fails to pay any Community Recovery Payment when due, interest shall be paid by the Company thereon at the rate of 1% per month (or such lesser rate as may be allowed by law) until paid. If there has been a failure which is not cured within 30 days following a written notice from the Authority that it be cured, the Authority shall be entitled to enforce its rights under this Section 4 and the Company shall indemnify the Authority for all costs of enforcement, including any court costs and reasonable and actual attorneys' fees and court costs.

TERMINATION OF AGREEMENT.

Delay. If, despite the good faith efforts of the parties, this Agreement and the Acknowledgements hereto are not fully executed on or before 5:00 o'clock p.m., Blackshear, Georgia, time, on May 31, 2019, or the Closing has not occurred by 5:00 o'clock p.m., Blackshear, Georgia, time, on December 31, 2019, then the Authority or the Company may terminate this Agreement by written notice to the other Party, without any further liability except as otherwise expressly provided in this Agreement. The Company and the Authority agree to use commercially reasonable efforts to close the issuance of the Project Bonds as promptly as reasonably possible following execution of this Agreement.

Approval by Governing Bodies. Upon its execution of this Agreement, each Party and each signatory of an Acknowledgment hereto represents and warrants that its governing body or other authorized committee or official thereof has approved and authorized its entry into such Agreement or Acknowledgment, and this Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms, except as the enforceability hereof may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally and the application of general principles of equity.

Closing Conditions. Any Party shall have the right to terminate this Agreement prior to the Closing, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving written notice to the other Parties, if:

Any other Party is in material breach of this Agreement.

There has been commenced or threatened against the Authority or the Company, or any Affiliate of the Company, any proceeding (a) involving any challenge to, or seeking damages or other relief in connection with, any of the matters that are the subjects of this Agreement, or (b) that may have the effect of preventing, delaying, making illegal, imposing limitations or conditions on, or otherwise interfering with, any of such matters. An uncontested validation proceeding for the Project Bonds shall not be considered a proceeding within the meaning of this Section.

The Authority's Termination Rights. The Authority shall have the right to terminate this Agreement, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving written notice thereof to the Company, pursuant to any provision allowing it to do so contained elsewhere in this Agreement. Without limitation, the Authority shall have the right to terminate this Agreement, effective immediately upon giving written notice to the other Parties if, by the Closing (or if this Agreement specifies another time therefor, then by such time) each Closing Condition set forth herein in favor of the Authority has not been satisfied. If the Authority does not exercise any such right to terminate by Closing (or by such other time specified), then, as of the Closing, such right shall be deemed waived with respect to the subject thereof.

The Company's Termination Rights. The Company shall have the right to terminate this Agreement, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving written notice thereof to the Authority, pursuant to any provision allowing it to do so contained elsewhere in this Agreement. Without limitation, the Company shall have the right to terminate this Agreement, effective immediately upon giving written notice to the other Parties if, by the Closing (or if this Agreement specifies another time therefor, then by such time) each Closing Condition set forth herein in favor of the Company has not been satisfied. If the Company does not exercise any such right to terminate by Closing (or by such other time specified), then, as of the Closing, such right shall be deemed waived with respect to the subject thereof.

Effect of Termination. If any Party terminates this Agreement pursuant to a right provided herein or if this Agreement expires, this Agreement shall terminate or expire as to all Parties without any further liability on the part of any Party, except as may theretofore have accrued, or except as otherwise expressly provided in this Agreement, or shall exist as a result of any prior breach hereof.

MISCELLANEOUS.

Notices. Any notice required to be given by any Party pursuant to this Agreement, shall be in writing and shall be deemed to have been properly given, rendered or made only if either (i) delivered personally to the Party or, if such Party is not an individual, to an officer or other legal representative of the Party to whom the same is directed, or (ii) mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) sent via nationally recognized overnight courier for next business day delivery, addressed to each other Party at the addresses set forth below (or to such other address as any particular Party may designate for notices to it to each other Party from time to time by written notice), and shall be deemed to have been given, rendered or made on the day so delivered or on the date of personal delivery, the first business day after having been deposited with the courier service or the United States Postal Service:

If to the Authority: Pierce County Industrial Development and Building Authority
200 SW Central Ave
Blackshear, Georgia 31516
Attn: Executive Director

with a copy to: Seyfarth Shaw LLP
1075 Peachtree Street, N.E.
Suite 2500
Atlanta, Georgia 30309-3962
Attn: Daniel M. McRae

If to the Company: Tyre Bridge Solar LLC
c/o Hexagon Energy, LLC
722 Preston Ave, Suite 102
Charlottesville, VA 22903
Attn: Matthew Hantzmon, CEO

with copies to: McGuireWoods LLP
Gateway Plaza
800 East Canal Street
Richmond, Virginia 23219-3916
Attn: Douglas E. Lamb

Confidential Information. All confidential information acquired by the Authority, the Board of Assessors or the Tax Commissioner relating to the Company, shall be held in confidence by them, subject to their legal obligations as public bodies, including, without limitation O.C.G.A. § 15-18-70, *et seq.* and § 50-14-1, *et seq.* The Company and its advisors shall, prior to the execution and delivery hereof, treat the contents of this Agreement as confidential, and, without limitation, shall not disclose such contents to competing communities or states.

No Partnership or Agency. No partnership or agency relationship between or among the Parties shall be created as a result of this Agreement.

Survival of MOU. Any provisions of this Agreement intended to survive the Closing and the expiration or termination of the Bond Lease shall survive the Closing and expiration or termination of the Bond Lease, but may be superseded in whole or in part by the EDA to the extent that the EDA expressly so provides.

Governing Law; Jurisdiction and Venue. The transactions contemplated hereunder and the validity and effect of this Agreement are exclusively governed by, and shall be exclusively construed and enforced in accordance with, the laws of the State of Georgia, except for the state's conflicts of law rules. The Company consents to jurisdiction over it and to venue in the County.

Amendments. Any amendments, deletions, additions, changes or corrections hereto must be in writing executed by the parties hereto.

Entire Agreement. This Agreement, together with the Definitive Documents (when executed), constitutes the entire agreement between the Parties with respect to the subject matter hereof.

Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Counterparts; Electronic Transmittal. This Agreement may be signed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument. To facilitate execution of this Agreement, the Parties expressly acknowledge and agree that, notwithstanding any statutory or decisional law to the contrary, the printed product of a facsimile or electronic transmittal of this Agreement shall be deemed to be "written" and a "writing" for all purposes, and shall otherwise constitute an original document binding upon the transmitting party.

No Personal Liability of Representatives of Public Bodies. No official, member, director, officer, agent, or employee of the Authority, the Board of Assessors or the Tax Commissioner, shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such public bodies. Without limitation, and without implication to the contrary, all parties hereto waive and release any and all claims against each such official, member, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of such public bodies into this Agreement.

No Personal Liability of Representatives of Company. No official, member, manager, director, officer, agent, or employee of the Company shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such entity. Without limitation, and without implication to the contrary, all parties hereto waive and release any and all claims against each such official, member, manager, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of such entity into this Agreement.

Legal Compliance. The Company agrees that it and its officers and employees acting for it in matters relating to this Agreement shall comply with all applicable provisions of law, including, without limitation, O.C.G.A. Sec. 50-36-1 relating, in part, to public benefits.

6.13 Effective Date. This Agreement shall not be effective until it has been fully executed by all Parties hereto.

6.14 Consequential Damages. IN NO EVENT SHALL ANY PARTY BE LIABLE TO ANY PARTY OR ANY PERSON OR ENTITY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding and caused it to be delivered as of the following **“Effective Date”**.

The “Authority”:

PIERCE COUNTY INDUSTRIAL DEVELOPMENT AND BUILDING AUTHORITY

By: _____
Chairman

ATTEST:

Secretary

(AUTHORITY’S SEAL)

The “Company”:

TYRE BRIDGE SOLAR, LLC

By: _____
Name: _____
Title: _____

ATTEST:

Name: _____
Title: _____

(COMPANY’S SEAL)

ACKNOWLEDGED

The undersigned acknowledges this Agreement and agrees to the provisions hereof that are applicable to it.

The “Board of Assessors”:

**BOARD OF ASSESSORS OF
PIERCE COUNTY**

By: _____
Chairman

ACKNOWLEDGED

The undersigned acknowledges receipt of this Agreement and will discharge his duties related thereto as required by law.

The “Pierce County Commission”:

TAX COMMISSIONER OF PIERCE COUNTY

By: _____

SCHEDULE 1.5
DESCRIPTION OF THE SITE

SCHEDULE 3.2.1

SAVINGS SCHEDULE

1. The Project. For each year in the below table, the Company will pay amounts equal to the corresponding percentage (“**Payment Percentage**”) of the normal *ad valorem* property taxes that would be payable if legal title to the Project were vested in the Company, instead of the Authority on January 1 of such year. The corresponding savings percentage (“**Savings Percentage**”) is 100% less the Payment Percentage. Such payments shall constitute payments in lieu of taxes.

<u>Year</u>	<u>Payment Percentage</u>	<u>Savings Percentage</u>
Year 1	50.00%	50.00%
Year 2	50.00%	50.00%
Year 3	50.00%	50.00%
Year 4	50.00%	50.00%
Year 5	50.00%	50.00%
Year 6	50.00%	50.00%
Year 7	50.00%	50.00%
Year 8	50.00%	50.00%
Year 9	50.00%	50.00%
Year 10	50.00%	50.00%
Year 11	50.00%	50.00%
Year 12	50.00%	50.00%
Year 13	50.00%	50.00%
Year 14	50.00%	50.00%
Year 15	50.00%	50.00%
Year 16	50.00%	50.00%
Year 17	50.00%	50.00%
Year 18 & thereafter	100.00%	0%

2. The savings applies to all *ad valorem* property taxes (city, county, state and other) with respect to property comprising part of the Project, as applicable, titled to the Authority in connection with the issuance of the Project Bonds. The Company shall pay normal property taxes with respect to property not so titled to the Authority. At the Company's election, the Company may terminate this Agreement in Year 8 or after without penalty (including any Community Recovery payments accruing thereafter) or PILOT payment accruing in Year 8 or after, provided that the Company pays normal *ad valorem* taxes on the Project. For the avoidance of doubt, the savings only applies to personal property and not real property.

SCHEDULE 3.2.4

FORM OF SURETY BOND

PERFORMANCE BOND (Multiple Year)

Travelers Casualty and Surety Company of America Hartford, CT 06183

Bond No.: *****DRAFT*****

KNOWN ALL MEN BY THESE PRESENTS, That we, [redacted], as Principal, and Travelers Casualty and Surety Company of America, a Connecticut corporation, as Surety, are held and firmly bound unto the Tax Commissioner of Twigg County, as Obligee, in the sum of [redacted] Dollars (\$5,346,776) for the payment whereof said Principal and Surety bind themselves firmly by these presents.

WHEREAS, Principal has, by written Agreement, dated [redacted], entered into a contract with Obligee, for payments in lieu of taxes (as described in section 3.2 of the Memorandum of Understanding which is schedule of the Contract) ("Contract");

NOW, THEREFORE, the condition of this obligation is such that if Principal shall faithfully perform the Contract according to its terms and conditions during the effective dates of this bond, then this obligation shall be void, otherwise to remain in full force and effect. Surety's obligation hereunder shall not arise unless Principal is in default under the Contract, and has been declared by Obligee to be in default under the Contract; and Obligee has performed its obligations under the Contract. The Surety's obligation is also subject to the following conditions:

- 1. The effective dates of this bond shall be from [redacted] to [redacted], and Surety shall not be liable for any defaults arising before or after the effective dates of the bond.
2. Surety's aggregate liability under this bond shall in no event exceed the penal sum of the bond.
3. No suit shall be commenced under this bond after the expiration of one (1) year following the earlier of (a) the expiration date of this bond, or (b) the date that Principal ceased work under the Contract, excluding warranty work.
4. Notwithstanding anything in the Contract to the contrary, this does not inure to the benefit of or confer any right of action upon any person other than the named Obligee.

Signed this [redacted] day of [redacted], [redacted].

(Principal)

By: [redacted]

Travelers Casualty and Surety Company of America

By: [redacted], Attorney-in-Fact

SCHEDULE 4

COMMUNITY INCENTIVES SCHEDULE

1. The recovery value (“**Recovery Value**”) of each of the Community Incentives provided pursuant to the Sections of this Agreement identified below shall be as specified in the rows of the table set forth below (the “**Incentives Table**”), with any payments to be made as provided in this Community Incentives Schedule to the parties indicated as follows:

INCENTIVES TABLE

SECTION	INCENTIVE	RECOVERY VALUE	RECOVERY PAID TO
3.2	Property Tax Savings on the Project	Years 1-15: Actual amount of the saved <i>ad valorem</i> property taxes on the Project for the subject year.	Appropriate Taxing Authorities, Pro Rata in Proportion to Applicable Millage Rates

2. If there is a Project Shortfall Percentage that is equal to or greater than 20% in a Performance Period, then for such period the Company shall make a payment with respect to the Tax Savings incentive in the Incentives Table above (each payment, a “**Community Recovery Payment**,” and collectively, the “**Community Recovery Payments**”) to the respective Taxing Authorities so specified above in an amount equal to the Recovery Value for such period multiplied by the Project Shortfall Percentage. For example, if the Project Shortfall Percentage is 28% for a Performance Period, the Company would owe a Community Recovery Payment of 28% of the tax savings enjoyed by the Company in the previous tax year. If the Project Shortfall Percentage is less than 20%, there shall be no Community Recovery Payment due.
3. The jobs goals applicable to the Company are set forth in the table (“**Community Goals Table**”) below:

COMMUNITY GOALS TABLE

(Measured as of January 1 of Each Calendar Year (Performance Period))

PERFORMANCE PERIOD	COMMUNITY JOBS GOAL	COMMUNITY INVESTMENT GOAL
Years 1-15	3	\$105,000,000

4. For purposes of the Community Jobs Goal and Community Investment Goal, “*force majeure*” shall have the same meaning provided in Section 1.7.6 of this Agreement. Notwithstanding the provisions of this Agreement set forth above, the Community Jobs Goal and Community Investment Goal in any year are each subject to the effect of *force majeure* as provided below, if the Company certifies to the Authority in writing in the applicable Annual Report of the dates of the commencement and, if the event of *force majeure* has abated, the date of the abatement, of such event of *force majeure*. The effect of *force majeure* for such purposes shall be that for any year in which the Company is entitled to claim, and does claim, the benefit of such provision, the requirement for the Company to be in compliance with its Community Jobs Goal and Community Investment Goal shall be suspended for such year, but the Performance Period shall be extended by another year, which shall immediately follow the *force majeure* year. The Company’s Community Jobs Goal and Community Investment Goal requirements shall resume as scheduled beginning with the extension year, and shall continue as scheduled through the same number of remaining years as would have applied if there had been no event of *force majeure*. Termination or expiration of the Bond Lease or any other of the Definitive Documents shall not affect such requirements hereunder, even if

the Performance Period is extended beyond such termination or expiration. The foregoing notwithstanding, (a) the Company may not claim the benefit of *force majeure* more than twice, and (b) in no event shall *force majeure* excuse or postpone a payment obligation.

5. The Company shall pay any Community Recovery Payment to the Party or Parties specified above simultaneously with its delivery of the Annual Report for the subject year as required by this Agreement.
6. Notwithstanding any other provision hereof to the contrary, in no event shall the aggregate amount of all Community Recovery Payments made hereunder exceed the actual aggregate amount of the saved *ad valorem* property taxes on the Project, calculated cumulatively through the date of calculation, with any unpaid accrued liability being due at such time as provided herein.

SCHEDULE 4.2

RULES FOR SATISFYING THE COMMUNITY JOBS GOAL

1. For purposes of this Agreement, the number of new “full-time jobs” shall be defined and determined, from time to time, as follows:
 - a) Only direct employees of the Company shall be counted, except as provided in subsection 1(d), below. While not required, the Company is strongly encouraged to consider residents of Pierce County, Georgia, in fulfilling its Community Jobs Goal.
 - b) Except as provided in subsection (d), below, in determining the number of full time jobs a portion of the definition of “full-time job” from the job tax credit regulations of the Georgia Department of Community Affairs, which portion is set forth below, shall be used, but shall be modified as follows: “In no event shall any temporary employee or leased employee be counted as occupying a full-time job, regardless of whether or not such person is employed by the Company or any other person or entity.”
 - c) Except as provided in subsection 1(d), below, “**full-time job**” means the following: “a job with no predetermined end date (other than a retirement date), with a regular work week of 35 hours or more on average for the entire normal year of local Company operations, and with benefits provided to other regular employees of the local Company, but does not mean a job classified for federal tax purposes as an independent contractor.” Part-time jobs are counted on a full-time equivalent basis (for example, 17.5 hours per week equals one-half full-time job).
 - d) Notwithstanding anything to the contrary herein, the hiring of third-party logistics providers, third-party contractors or third-party employment services company and all providers hired pursuant to the terms of any operations and maintenance agreement that the Company or its Affiliates have entered into in connection with the Project shall count hereunder as jobs created by the Company provided that: (i) the person or persons doing the work are full-time employees of the third-party; (ii) the work provided by such person(s) for the Company is based at the Project; and (iii) the amount of time worked by all such persons, when aggregated, shall amount to at least 35 hours per week on average for the entire normal year of local Company operations.
2. Except as provided in subsection 1(d), above, the number of full-time jobs shall be calculated as provided below.
 - a) The number of jobs shall be determined based on the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year.
 - b) The monthly average number of full-time employees in a taxable year shall be determined by the following method:
 - (i) for each month of the taxable year, count the total number of full-time employees of the business enterprise that are subject to Georgia income tax withholding as of the last payroll period of the month or as of the payroll period during each month used for the purpose of reports to the Georgia Department of Labor;

- (ii) add the monthly totals of full-time employees; and
- (iii) divide the result by the number of months the business enterprise was in operation during the taxable year. Transferred jobs, except for jobs transferred to the Project from outside the State of Georgia, and replacement jobs may not be included in the monthly totals.

SCHEDULE 4.4

RULES FOR SATISFYING THE COMMUNITY INVESTMENT GOAL

1. Only capital investments in the Project by the Company or its Affiliates shall be counted, except as provided in 4 below.
2. Original cost, without regard to depreciation, shall be used in calculating whether the Community Investment Goal is met, except as provided in 3, below.
3. Transferred equipment relocated by the Company or its Affiliates to the Project, to be used as part of the Project, may be counted at net book value, or, if requested and substantiated by the Company to the Authority’s reasonable satisfaction, and approved by the Authority (which approval shall not be unreasonably withheld, delayed or conditioned), its fair market value.
4. Machinery and equipment leased to the Company or its Affiliates under an operating lease (even though such property is not titled to the Authority and is not leased to the Company under the Bond Lease) and other machinery and equipment owned or beneficially owned by the Company or its Affiliates but not leased to it under the Bond Lease, shall be counted.

SCHEDULE 4.6

FORM OF ANNUAL REPORT

[DATE]

[AUTHORITY]

Re: Memorandum of Understanding (“MOU”) and EDA between the [AUTHORITY] (“Authority”) and [COMPANY] (“Company”) regarding the capital project located in [COUNTY], Georgia (the “Project”) – 20__ Annual Report

Dear _____:

This letter shall serve as the 20__ Annual Report, as required under the MOU and EDA.

1. Community Jobs Report.

As of December 31, 20__, the total number of full-time jobs located at the Project, based on the monthly average number of jobs, was _____. We have enclosed _____ as evidence of such job creation.

The Community Jobs Goal for _____ was _____ jobs. The Community Jobs Shortfall for the year _____ is _____ jobs.

2. Community Investment Report.

As of December 31, 20__, the total investment in Pierce County in the Project is \$_____. We have enclosed _____ as evidence of such investment.

The Community Investment Goal for _____ was \$_____. The Community Investment Shortfall for the year _____ is \$_____.

3. Community Recovery Payments

The Community Jobs Shortfall for 20__ is ____. The Community Investment Shortfall for 20__ is \$_____. Therefore, the Project Shortfall Percentage for 20__ is ____%. [IF A COMMUNITY RECOVERY PAYMENT IS DUE, THAT PAYMENT SHOULD BE CALCULATED HERE BASED ON TERMS AND PROVISIONS OF THE MOU]

Please do not hesitate to let us know if you require any additional information.

Sincerely,
Enclosures

Commissioner David Lowman made a motion to approve the MOU as presented for the Tyre Bridge Solar project. Commissioner Randy Dixon seconded the motion. All voted aye, motion approved.

Chairman Bennett stated that there will be no work session on May 28, 2019.

Commissioner Mike Streat asked that everyone remember the family of Jerry Dixon, City Councilman in their prayers.

Chairman Bennett adjourned the meeting at 6:15 PM

ADJOURN