At a Meeting of the Town Board of the Town held on the 13th day of January, 2022, at 7:00 pm, at the Alfred Town Building, 6340 Shaw Road, Alfred Station, in the Town of Alfred, County of Allegany and State of New York.

STATE OF NEW YORK COUNTY OF ALLEGANY

TOWN OF ALFRED TOWN BOARD

In the Matter of the Application of **RESOLUTION**

NY Alfred I, LLC for the 5568 Jericho Hill Road

Solar Farm Project

**UPON MOTION OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, SECONDED BY \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, IT IS UNANIMOUSLY RESOLVED THAT:**

**WHEREAS,** the Town of Alfred Town Board (the “Town Board”) received an application (the “Application”) from NY Alfred I, LLC (the “Applicant”) for site plan and special use permit approval, pursuant to the Town of Alfred (“Town”) Solar Energy Systems and Facilities Law (the “Solar Law”), to construct and operate a nominal 5.0-megawatt AC ground-mounted solar energy system and associated electrical appurtenances located at 5568 Jericho Hill Road (“Project”); and

**WHEREAS,** the Application was originally submitted on or about June 3, 2021; and

**WHEREAS,** the Town Board deemed the Application incomplete by letter dated June 24, 2021; and

**WHEREAS,** the Applicant amended and supplemented the Application by correspondence dated July 1, 2021 with accompanying Application materials; and

**WHEREAS,** the Project is a Type I Action under the State Environmental Quality Act (“SEQRA”), and the regulations promulgated thereunder; and

**WHEREAS,** at the Town Board meeting held July 8, 2021, the Town Board accepted the Part 1 to the SEQRA Full Environmental Assessment Form (“EAF”) for the Application and asserted SEQRA lead agency and directed the issuance of a Notice of Intent to Become Lead Agency, with accompanying EAF and referenced Application materials, to the SEQRA involved agencies, including the New York State Department of Environmental Conservation (“NYSDEC”), New York State Energy Research and Development Agency, Allegany County Planning Board, and Town of Alfred Zoning Board of Appeals (“ZBA”); and

**WHEREAS,** at the July 8, 2021 Town Board meeting, the Town Board requested additional visual renderings of the Project from the Applicant, which, along with a Stormwater Pollution Prevention Plan (“SWPPP”), were provided to the Town Board by correspondence dated July 28, 2021 and August 4, 2021; and

**WHEREAS,** at the August 8, 2021 Town Board meeting, the Town Board deemed the Application complete, referred the Application to the Allegany County Planning Board pursuant to General Municipal Law § 239-m, and set a public hearing on the Application; and

**WHEREAS,** by correspondence dated September 2, 2021, LaBella Associates (“LaBella”), the environmental and engineering consultant for the Town, provided comments on the Application and requested additional information related to the site and grading plans and details, landscape plan, visual simulations, decommissioning plan, operations and maintenance plan, SWPPP, tree cutting, and electrical issues; and

**WHEREAS,** by correspondence dated September 7, 2021, the Applicant provided additional Application materials to address questions raised by the September 2, 2021 LaBella correspondence and at the August 8, 2021 Town Board meeting; and

**WHEREAS,** a duly noticed public hearing was held on the Application at the September 9, 2021 Town Board meeting and comments were received from the public, including Norman Grosse and Fred Sinclair, and the Town Board regarding concerns about the visual impact of the Project, tree clearing, stormwater runoff, noise, landscaping, and electrical issues; and

**WHEREAS,** the Application was reviewed and approved without conditions by the Allegany County Planning Board at a meeting held on September 15, 2021; and

**WHEREAS,** the Allegany County Planning Board provided comments on the potential impact of the Project on stormwater runoff associated with tree removal, solar panels, and additional driveways creating hard surfaces, noting that these concerns would be addressed in the SWPPP process; and

**WHEREAS,** additional comments were received from LaBella by correspondence dated September 27, 2021 regarding outstanding information; and

**WHEREAS,** by correspondence dated October 12, 2021, the Applicant provided additional information regarding tree surveys, electrical code compliance, a noise assessment, worst-case stormwater impact assessment, the SWPPP, additional visual simulations and landscaping plans, and updated site and grading plans and decommissioning plans; and

**WHEREAS,** at the October 14, 2021 Town Board meeting and a subsequent conference with LaBella held October 20, 2021, documented in an email dated October 26, 2021 from LaBella, additional information and revisions were requested with regard to electrical issues, tree clearing procedures, the SWPPP, noise impact assessment, construction hours, geotechnical issues, pesticide use, and landscaping plans; and

**WHEREAS,** by correspondence dated November 3, 2021, the Applicant provided an updated decommissioning plan, assessment of the impact on stormwater in the worst case event that all solar panel support structures required concrete footers instead of H-pile construction, and provided additional information with regard to electrical issues, tree clearing procedures, the SWPPP, noise impact assessment, construction hours, geotechnical issues, pesticide use, and landscaping plans; and

**WHEREAS,** at the November 11, 2021 Town Board meeting, additional questions were discussed concerning storm water runoff and electrical issues and the Town Board, at the request of the Applicant, adopted a resolution to extend the time to make a SEQRA determination of significance to December 9, 2021; and

**WHEREAS,** by correspondence to the Town Board, dated November 23, 2021, LaBella provided an updated review of the application, which was shared with the Town Board on November 23, 2021 and the Applicant on December 2, 2021; and

**WHEREAS,** by correspondence dated December 6, 2021, the Applicant provided a response to the November 23, 2021 correspondence and included an updated draft SWPPP and updated site plan set adding level spreaders proposed to be installed along the downslope edge of each row of solar panels to maintain sheet flow and to reduce possible erosion and runoff throughout the project site; and

**WHEREAS,** at the December 9, 2021 Town Board meeting, additional questions were discussed concerning storm water runoff related to the design assumptions made in the SWPPP, the load rating of the impervious access road, and compliance with access requirements of the Fire Code and, with the agreement of the Applicant, adopted a resolution to extend the time to make a SEQRA determination of significance to January 13, 2022; and

**WHEREAS,** on December 15, 2021 the Applicant received a stormwater general permit authorization letter from NYSDEC for the Project; and

**WHEREAS,** by correspondence dated December 27, 2021, the Applicant provided a response to the questions raised at the December 9, 2021 Town Board meeting with additional assessment of the design assumptions supporting the SWPPP, including an extended access road, and a revised geosynthetic product specification to ensure sufficient load rating of the access road; and

**WHEREAS,** by correspondence dated January 10, 2022, LaBella concurred with the design assumptions supporting the SWPPP, pending confirmation of geotechnical conditions and revisions to the operation and maintenance plan to include requirements for annual inspection and repair, if necessary, of the proposed level spreaders, and the load rating of the access road, pending review of revised site plan details of the geosynthetic product specification; and

**WHEREAS,** while the Application is subject to the Solar Energy Systems and Facilities Law, Local Law No. 1 of 2020 (the “Old Solar Law”), the ZBA, through a resolution adopted on January 13, 2022, and Applicant have consented to the applicability of the solar energy system requirements of Section 411 of the Town of Alfred Zoning Law, adopted pursuant to Local Law No. 1 of 2021 (the “New Solar Law”), to the Application and Project; and

**WHEREAS**, based on the Application, as supplemented and amended as described above, LaBella prepared a draft Part 2 and Part 3 of a Full EAF, with accompanying narrative, which the Town Board has reviewed; and

**WHEREAS,** in accordance with SEQRA and regulations adopted to implement SEQRA, the Town Board undertook an environmental review of the construction and operation of the Project.

**NOW, THEREFORE, IT IS RESOLVED** that the Town Board has considered the Project and its potential for environmental impacts; the Application as amended and supplemented; the Part 1 of the EAF and the draft Parts 2 and 3 of the EAF prepared by LaBella; the criteria contained in 6 N.Y.C.R.R. §617.7(c); and other supporting information to identify the relevant areas of environmental concern; and thoroughly analyzed the identified relevant areas of environmental concern to determine if the Project may have a significant adverse impact on the environment, and finds that the Project would not have a significant impact on the environment because of the reasons discussed in the narrative to the EAF, which is incorporated in full herein and attached hereto; and

**IT IS FURTHER RESOLVED**, that pursuant to SEQRA, a Negative Declaration shall be made and duly filed, and an environmental impact statement need not be prepared; and

**IT IS FURTHER RESOLVED**, that pursuant to SEQRA, a notice of this Negative Declaration shall be submitted to the Environmental Notice Bulletin; and

**IT IS FURTHER RESOLVED,** that the Town Board consents to the application of the New Solar Law to the Application and the Project; and

**IT IS RESOLVED,** pursuant to Section 607.04 of the Zoning, that the Town Board finds that the Project:

* Is specifically authorized as a special use within the AG District of the Project ste pursuant to Section 411.06 of the Zoning Law;
* Meets all of the criteria set forth in Section 411 of the Zoning Law for Tier 3 solar energy systems;
* Will not alter the general character of the surrounding area, or impair the intent or purpose of the Zoning Law or the Town’s Comprehensive Plan. In making this finding, the Town Board considered the following factors:
  + The location and size of proposed Project;
  + The nature and intensity of the operations involved;
  + The size of the site in relation to the size of the proposed Project;
  + Whether the location, nature and height of the Project will discourage the appropriate development and use of adjacent land and buildings and properties generally in the district or impair the value thereof;
  + Whether the operations in connection with the proposed project will be more objectionable in nature to nearby properties and properties generally in the district by reason of noise, fumes, vibration, flashing lights, increased traffic or any other objectionable reasons, than would be the operations of any use permitted as of right;
  + The impact on existing and planned capacity of infrastructure systems, including but not limited to roads, water, sewer, energy and drainage;
  + Whether environmentally sensitive features will be protected; and
  + Whether the Project will create fiscal burdens upon the community at large.

**NOW, THEREFORE, IT IS FURTHER RESOLVED** that the Special Use Permit and Site Plan Approval requested in the Application are approved, subject to the conditions listed in Exhibit “A” annexed hereto.

**Janice Burdick, Town Clerk Date**

**Exhibit A**

**Conditions to Approval**

1. Prior to construction, the Applicant must obtain a Building Permit for the Project from the Town Code Enforcement Officer (“CEO”).
2. The Project shall be constructed and operated in a manner consistent with the materials included in the approved Application, including, but not limited to the approved Landscaping Plan, Vegetation Management Plan, and Operations and Maintenance Plan.
3. The Applicant will provide a CESIR study and any subsequent agreement for the Project from the electric utility, National Grid, to the Town for the public record.
4. The Project will comply with the State Pollutant Discharge Elimination System (SPDES) General Permit for Storm Water Discharges from Construction Activities (GP-0-20-001) and the approved Stormwater Pollution Prevention Plan (“SWPPP”), which shall be in conformance with the NYSDEC Solar Panel Construction Stormwater Permitting/SWPPP Guidance dated April 5, 2018.
5. Revisions to drawings previously submitted with the Application should be dated and clouded to graphically clarify the changes that have been made.
6. Prior to final signatures being placed on the site plan, the Applicant will satisfactorily address the January 10, 2022 Town Engineer Comments and provide the following to the CEO and Town Engineer:
   1. A final specification sheet for solar panels, significant components, mounting systems, and inverters.
   2. A copy of the results of a geotechnical study conducted at the Project site to confirm the design assumptions made in the SWPPP.
   3. Updated site plans to include revisions such as, but not limited to, the change in geosynthetic product specification, revised location of level spreaders, and extended road location.
   4. The Operations and Maintenance Plan will be updated to provide for annual inspection and, if necessary, repair of the level spreaders.
   5. The Operations and Maintenance Plan will be updated to describe the daily active site monitoring including how the system will be remotely monitored, who will perform the monitoring, and the contact information for the remote monitoring company.
   6. Approval of the site plan for compliance with the site access requirements of the Fire Code.
7. A signature block will be added on each drawing of the plan set for the Town Supervisor, CEO, and Town Engineer to sign and date, and the site plan drawing to be presented for final signature will be signed and sealed by a New York State Licensed Professional Engineer.
8. Prior to the issuance of a building permit, the Operator shall provide a copy of all necessary titles to or leasehold interests in the facility, including ingress and egress access to public streets, and such deeds, easements, leases, licenses, or other real property rights or privileges as are necessary for all interconnections for the facility.
9. Liability Insurance. Prior to issuance of a building permit for a Solar Energy System and continuing after construction until the decommissioning plan has been fully implemented, on an annual basis the owner and/or operator shall provide documentation satisfactory to the Town of the existence of liability insurance coverage with reasonable limits, as set by the Town Board in consultation with the Town's insurance advisor, for property damage, pollution, injury or death resulting from the construction, placement, use, maintenance or operation of a Solar Energy System by the operator and/or operator of the facility.
10. Transportation Plan:
    1. The applicant will consult with the Town Highway Superintendent, the Allegany County Highway Department and the New York State Department of Transportation, as applicable, to agree to a transportation plan to include:
       1. A construction schedule describing commencement and completion dates, routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the site during construction, as well as the gross weights and heights of vehicles used.
       2. The traffic routes shall consider the following factors;
          1. Minimizing traffic impacts from construction and delivery vehicles.
          2. Minimizing Solar Energy System related traffic during times of school bus activity.
          3. Minimizing wear and tear on local roads.
          4. Minimizing impacts on local business operations.
    2. Prior to the commencement of construction of the Solar Energy System, an existing condition survey of the approved hauling routes for construction of the Solar Energy System shall be performed. Any road damage during construction that is caused by the Applicant or one or more of its subcontractors that is identified by the New York State Department of Transportation ("NYSDOT"), Allegany County Highway, and Town of Alfred Highway (as appropriate) shall be repaired or reconstructed to the satisfaction of NYSDOT, Allegany County Highway, and Town of Alfred Highway Departments (as appropriate) at the Applicant's expense, prior to the final inspection. In addition, the Applicant shall pay for all costs related to NYSDOT, Allegany County Highway, and Town of Alfred Highway (as appropriate) pre-inspection work prior to receipt of the final inspection.
    3. Road Remediation. The applicant shall be responsible for remediation of damaged roads upon or, if necessary, during the construction of or completion of the installation of Solar Energy System. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Planning Board, sufficient to compensate the Town for any damage to local roads caused by the construction of the Solar Energy System that is not corrected by the applicant.
11. Prior to issuance of a building permit, the owner and/or operator shall provide a form of financial security that is sufficient to cover the implementation of the decommissioning plan. The financial security shall be in the form of a deposit, executions, or filing with the Town Clerk of cash, bond, or other form of security reasonably acceptable to the Town attorney and/or engineer, shall be in an amount sufficient to ensure the good faith performance of the terms and conditions of the permit issued pursuant hereto and to provide for the implementation of the decommissioning plan. The amount of the bond or security shall be 125% of the estimated cost of implementing the decommissioning plan with an escalator of 2% annually for the life of the Solar Energy System and shall be updated every fifth year thereafter specifying changes to the estimated cost of implementing the decommissioning plan. The salvage value of the Solar Energy System shall not be accounted for in the estimated cost of implementing the decommissioning plan.
12. Solar Energy System construction-related damage. The Operator of any permitted Solar Energy System shall, repair or replace all real or personal property, public or private, damaged as a result of the Solar Energy System construction.
13. Prior to commencement of operation, initial and annual site-specific training for the CEO, Fire Department, Emergency Response, Allegany County Emergency Management System, and Police Department, with expenses for such training covered by the Applicant.
14. Prior to the commencement of facility operations, a payment-in-lieu-of taxes (PILOT) for the facility will be executed.
15. The Solar Energy Systems shall be maintained in good working order and in accordance with industry standards and the conditions of this approval. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and the local ambulance corps.
16. The applicant shall be responsible for the cost of maintaining the Solar Energy System and any access road(s).
17. The Applicant shall identify a responsible person with contact information for public inquiries from the commencement of construction of the Solar Energy System until the completion of the decommissioning plan.
18. A copy of the annual inspection reports for the facility, including but not limited to inspections necessary to ensure compliance with the SWPPP and other stormwater management requirements necessary for ongoing operation of the Facility are functional, will be provided to the CEO. A certification of necessary corrective actions taken as a result of the annual inspection shall be provided to the CEO within 30 days of the annual inspection.
19. The Applicant, its successors and/or assigns, shall file annually with the Town, on the anniversary date of the granting of the Special Permit, a written report certifying that the Applicant, its successors and/or assigns are complying with maintenance and inspection procedures, and that the facility is not a hazard or a threat of a hazard to the health and safety of the public.
20. Prior to the commencement of operations and in a manner consistent with the escrow agreement between the Applicant and the Town, the Applicant shall have funded the escrow account set up by the Board to pay for legal and engineering services for review of the Application in an amount sufficient to pay all invoices of said consultants to the Board.
21. If the owner or operator of the Project changes, this special use permit and site plan approval shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special permit, site plan approval, and decommissioning plan. The new owner or operator of the Solar Energy System shall notify the Town Supervisor of such change in owner or operator in writing within 30 days of the change. The special use permit and all other local approvals for the Solar Energy System shall be void if a new owner or operator fails to provide written notification to the Town Supervisor in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under Section 411 of the Zoning Law, as amended.

**CERTIFICATION OF TOWN CLERK**

STATE OF NEW YORK)

COUNTY OF ALFRED ) s.s:

JANICE BURDICK, Town Clerk of the Town of Alfred, Allegany County, New York, DOES HEREBY CERTIFY that she has compared the above Resolution duly adopted by the Planning Board of the Town of Alfred on the \_\_\_\_\_th day of \_\_\_\_\_\_\_\_\_, 2022 with the original Resolution now on file in her office, and she certifies that it is a correct and true copy of that Resolution.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2022

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**JANICE BURDICK, TOWN CLERK**