

HOST COMMUNITY AGREEMENT

between the

Town of Evans

and

SL Evans, LLC

SL Evans II, LLC

**RELATING TO THE PREMISES LOCATED ON
SOUTHWESTERN BOULEVARD
(TAX MAP LOTS 270.00-4-11.1 and 207.00-4-21)
IN THE TOWN OF EVANS, NEW YORK**

HOST COMMUNITY AGREEMENT

This **HOST COMMUNITY AGREEMENT**, is made as of the 1st day of October, 2024 (this “**Agreement**”) by and between SL Evans, LLC, and SL Evans II, LLC each a limited liability company having offices at 800 Gessner Road, Suite 700, Houston, TX 77024 (collectively, the “**Company**”), and the Town of Evans, (the “**Town**”) a municipal corporation duly organized and existing under the laws of the State of New York and having its office at 8787 Erie Road, Angola NY 14006. The Company and the Town may sometimes be referred to herein, individually, as a “**Party**” and, collectively, as the “**Parties**”.

WHEREAS, the Company will develop or has developed a solar energy generating project (herein the “**Project**”) at 7690 Southwestern Boulevard in the Town of Evans (Tax Map Lots ## 270.00-4- 11.1 and 207.00-4-21); and

WHEREAS, in connection with the Project, the Company wishes to support the Town’s efforts by providing support to its environmental resilience efforts; and

WHEREAS, the Parties believe that their mutual interests will be served by the execution of this Agreement; and

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I

DEFINITIONS

The terms of this Agreement shall have the meanings ascribed to them herein, for all purposes of this Agreement, unless the context clearly indicates some other meaning. Words in singular shall include the plural and words in the plural shall include the singular where the context so requires.

“**Agreement**” means this Host Community Agreement and any and all exhibits or schedules attached hereto.

“**Parties**” shall mean the Company and the Town.

“**Project**” shall mean the solar energy system owned by the Company in the Town.

“**State**” means the State of New York.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

SECTION 2.1 TOWN REPRESENTATIONS AND WARRANTIES.

The Town represent, warrant, and agree as follows:

a. Existence and Good Standing. The Town is a validly existing political subdivisions of the State of New York.

b. Approval and Authorization. The Town has full power and authority to enter into this Agreement and to fully perform all of its duties and obligations hereunder. The Town has duly authorized the execution and delivery of this Agreement and the Town's performance of all of its duties and obligations contained herein, and this Agreement constitutes a valid and legally binding obligation of the Town, enforceable in accordance with its terms. A copy of the Town's resolutions approving this Agreement and authorizing its execution are attached hereto as Exhibit "A".

c. The Town's share of the payment under this Agreement shall constitute the Environmental Resilience Fund to be used by the Town exclusively for measures to better manage stormwater, protect against flooding, improve water quality, restore vital habitat, reduce streambank erosion, and to enhance the resilience of the Lake Erie shoreline. The Fund may also be used for the acquisition of property for the above-stated purposes

SECTION 2.2 COMPANY REPRESENTATIONS AND WARRANTIES.

The Company represents, warrants, and agrees as follows:

a. Existence and Good Standing. The Company is, and will continue to be throughout the term hereof, validly existing as a limited liability company authorized to do business within the State of New York.

b. Approval, Authorization and Enforcement. The Company has full power and authority to enter into this Agreement and to fully perform all of its duties and obligations hereunder. The Company is duly authorized to execute and deliver this Agreement and perform all of its duties and obligations contained herein.

c. Signatory. The Company represents and warrants that its signatory, whose signature appears hereafter, is both duly authorized and empowered to execute and enter into this Agreement on behalf of the Company.

d. All Statements True. No statement, information, representation or warranty of the Company contained in this Agreement or furnished by or on behalf of the Company in connection with the transactions contemplated contains any untrue statements of a material fact or omits to state a material fact necessary in order to make a statement contained herein not misleading.

ARTICLE III

TERM

SECTION 3.1 EFFECTIVE DATE.

This Agreement will become effective (the “**Effective Date**”) upon the execution by the Company and the Town.

SECTION 3.2 TERM.

The term of this Agreement will be for 20 years, shall commence with the taxable status date following completion of each Project. It is the intent of the Parties that this Agreement cover the tax years starting with the 2025 Town tax roll.

ARTICLE IV

HOST COMMUNITY PAYMENTS

SECTION 4.1 ANNUAL HOST COMMUNITY.

a. **Payment Rate.** The Company shall make annual payments (the “**Host Community Payment**”) to the Town for a period of twenty (20) consecutive fiscal tax years. The first annual payment shall be in the total amount of \$2,250.00 per Megawatt AC of Capacity (the “**Annual Payment**”). Thereafter Annual Payments will escalate by two percent (2%) per year. Based on the Capacity of 8.25 Megawatts AC, Annual Payments to be made by Company during the term of this Agreement.

b. **Due Date.** Host Community payments shall be due and payable on or before February 15th of each year during the term hereof. The first Host Community Payment hereunder shall be due on or before February 15, 2025.

c. **Jointly and Severally Liable.** As of the Effective Date of this Agreement, the Company is comprised of both SL Evans, LLC, and SL Evans II, LLC, each a separate limited liability entity. Said entities, or any of its successors and/or assigns, comprising the “Company”, but only to the extent the Company consists of more than one person or entity, shall bear joint and several liability for the obligations of the Company under this Agreement. This Section 4.1c shall not apply where the Company does not consist of more than one person or entity.

SECTION 4.2 LATE PAYMENT.

Any Host Community Payment not paid as of the date due shall be deemed late without any requirement of notice from the Town. Late fees shall be assessed at a rate of two percent (2%) for the first month or a portion of a month due, and one percent (1 %) for each subsequent month or a portion of a month on the original amount outstanding, until the Host Community Payment is paid.

SECTION 4.3 NO OFFSET.

Except as provided in Section 4.4 hereof, no payment due under this Agreement shall be offset against any other fee, payment, tax, or payment in-lieu-of-taxes due under any other agreement, even in the event that any federal, state, county or local law is enacted which would otherwise allow the Company to reduce or otherwise discontinue such payments.

SECTION 4.4 CREDIT FOR TOWN TAXES FOLLOWING EXPIRATION OF PILOT AGREEMENT.

Following expiration of the term of the Agreement, or any extended term thereof, the Company shall have the right to claim a credit against the next following Host Community Payment owed by the Company (which would be the final Host Community Payment due as a result of the termination of the Agreement) in an amount equal to the amount by which the Town taxes levied on the Project by the Town in such year exceed the Town's final payment under this Agreement.

ARTICLE V

TERMINATION

SECTION 5.1 TERMINATION BY COMPANY.

The Company may terminate this Agreement if at the same time it withdraws its tax exemption on the Project.

ARTICLE VI

BREACH AND REMEDIES

SECTION 6.1 NOTICE OF BREACH.

In any case where either Party breaches this Agreement, the non-breaching Party shall provide written notice to the breaching Party within ten (10) days of such breach ("**Notice of Breach**"). Each monetary Notice of Breach given by the Town to the Company or any Mortgagee will state the amounts, to the extent known, of any payments herein provided that are then claimed to be in Default.

SECTION 6.2 COMPANY RIGHT TO CURE.

The Company shall have the right to cure any breach and must cure such breach within thirty (30) days of its receipt of a Notice of Breach, in which event the Town shall give the Company an additional sixty (60) days to cure provided the Company has commenced a cure and proceeded diligently to affect such cure.

SECTION 6.3 REMEDIES CUMULATIVE.

No remedy herein conferred upon or reserved to the Town is intended to be exclusive of any other available remedy, but each and every such remedy shall be cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any breach shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

ARTICLE VII

SEVERABILITY

SECTION 7.1 SEVERABILITY.

If any clause, provision, section or article of this Agreement, or a portion thereof, is held invalid, inoperative or unenforceable by any court or regulatory authority of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by applicable law.

SECTION 7.2 REFORMATION.

Notwithstanding the foregoing, if any clause, provision, section or article of this Agreement, or a portion thereof, is held invalid, inoperative or unenforceable by any court or regulatory authority of competent jurisdiction, the Parties shall:

- a. Promptly meet and negotiate a substitute for such clause, provision, section or article, which will to the greatest extent legally permissible, effect the original intent of the Parties therein.
- b. Negotiate such changes in, substitutions for, or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with articles herein to effect the original intent of the Parties in the clause, provision, section or article declared invalid.

ARTICLE VIII

NOTICES

SECTION 8.1 NOTICES.

All notices, demands, requests, consents, or other communications provided for or permitted to be given pursuant to this Agreement shall be in writing and shall be mailed, communicated by electronic mail, or delivered to the Parties at the respective address set forth below:

If to the Company:

Attn: SL Evans, LLC
SL Evans II, LLC
800 Gessner Road, Suite 700
Houston, TX 77024 Attn: Notices

If to the Town:

Attn: Supervisor
Town of Evans
8787 Erie Road
Angola, New York 14006

All such notices, demands, requests, consents, or other communications shall be deemed to have been duly given when transmitted by electronic copy or personally delivered or, in the case of a mailed notice, upon receipt, in each case addressed as aforesaid. Each of the Parties may from time to time change its address for notices by providing notice of such change to the other Parties given in accordance with this Section.

ARTICLE IX MISCELLANEOUS

SECTION 9.1 NO WAIVER.

The failure of any Party to insist on the strict performance of any term or provision hereof will not be deemed a waiver of the right to insist on strict performance of any other term or provision, nor will it be deemed a waiver of any subsequent breach. Unless specifically stated, the selection of any specific remedy hereunder or under the Local Law by either Party shall not be deemed an election of remedies limiting either Party's right to seek any other remedy otherwise allowed by this Agreement or the Local Law.

SECTION 9.2 APPLICABLE LAW AND VENUE.

This Agreement will be governed by the laws of the State of New York. Venue for any dispute arising under this Agreement and not settled by mediation shall be solely in the New York State Supreme Court for Erie County.

SECTION 9.3 NO RECOURSE.

All obligations of the Parties contained in this Agreement shall be deemed to be the corporate obligations of the respective Parties and not obligations of any member, officer, director, official, agent, servant, employee, or affiliate of the Parties. No recourse upon any obligation contained in this Agreement, or otherwise based on or in respect of this Agreement, shall be had against any past, present, or future member, officer, director, official, agent, servant, employee, or affiliate of the Parties.

SECTION 9.4 ENTIRE AGREEMENT.

Unless supplemented or otherwise amended in writing by the Town and the Company in accordance with the laws of the State, this Agreement constitutes the Parties' entire agreement with respect to the subject set forth herein, and no other agreements, written or unwritten, implied or express, will be deemed effective.

SECTION 9.5 AMENDMENT.

No amendment, modification or alteration of the terms or provisions of this Agreement shall be binding unless the same shall be in a writing that specifically references this Agreement and that is duly executed by the Parties.

SECTION 9.6 BINDING EFFECT.

This Agreement shall inure to the benefit of and shall be binding upon each of the Parties and, as permitted by this Agreement, their respective successors and permitted assigns.

SECTION 9.7 HEADINGS.

The headings of sections and paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Agreement or to affect the construction hereof.

SECTION 9.8 ASSIGNMENT BY TOWN.

Except in the context of financing or securitizing revenues from the Project under this Agreement, the Town may not transfer or assign any of its rights or obligations under this Agreement without the prior written consent of the Company and any such transfer or assignment shall be null and void and of no force and effect. The Company shall cooperate with the Town from time to time, including, without limitation, by entering into a consent and assignment or other agreements with the Town and the financing

parties involved with any such financing or securitization in connection with any collateral assignment on such terms as may be customary under the circumstances and shall reasonably be required by the involved financing parties.

SECTION 9.9 ASSIGNMENT BY COMPANY.

This Agreement may not be assigned by Company without the prior written consent of the Town; such consent may not be unreasonably withheld if a qualified Assignee has agreed in writing to accept all obligations of the Company. The restrictions on assignment contained herein do not prohibit or otherwise limit changes in control of Company. If Company assigns this Agreement with the advance written consent of the Town, the Company shall be released from all obligations under this Agreement upon assumption hereof in writing by the assignee, provided that Company shall, as a condition of such assignment and to the reasonable satisfaction of the Town, cure any defaults and satisfy all liabilities arising under this Agreement prior to the date of such assignment. A Notice of this Agreement may be recorded by Company and the Town shall cooperate in the execution of required Assignments with the Company and its successors. Company may, with advance written notice to the Town and without prior consent, assign this Agreement to an affiliate of Company or to any party who has provided or is providing financing to Company for the construction, operation and/or maintenance of the Project.

Nothing herein shall limit in any way the right of the owners of the Company to sell or otherwise transfer (including by merger or consolidation with any other entity) all or a portion of their ownership interests in the Company.

SECTION 9.10 COUNTERPARTS.

This Agreement may be executed in any number of counterparts each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year above written.

Town of Evans

By: Ray Ashton
Name: RAY ASHTON
Title: Superintendent

SL Evans, LLC

By: _____
Name: _____
Title: _____

SL Evans II, LLC

By: _____
Name: _____
Title: _____