

## TOWN ROAD USE AGREEMENT

This TOWN ROAD USE AGREEMENT (this “Agreement”) is made and entered into as of XXXX XX, 2025, by and between the TOWN OF CROSS PLAINS, a Wisconsin municipal corporation (“Town”) and PINE HILL SOLAR, LLC, a Delaware limited liability company (“Company”). Town and Company may be referred to together as the “Parties” and each, a “Party.”

### RECITALS

WHEREAS, Company intends to construct, operate and maintain a solar energy generating system (the “Solar Project”) pursuant to that certain Land Lease and Solar Easement dated March 22<sup>nd</sup>, 2021 (the “Lease”) by and between Company and the Robert M. Brunner Revocable Trust (the “Landowner”), as such leased property is depicted on the map attached to this Agreement as Exhibit A (the “Leased Property”);

WHEREAS, during its construction of the Solar Project, Company requires the use of the Subject Road (as defined below) by Heavy Vehicles (as defined below) to access the Leased Property, which Subject Road is owned and maintained by Town; and

WHEREAS, Town is willing to allow Company’s use of the Subject Road by Heavy Vehicles upon the terms and conditions set forth herein.

### AGREEMENT

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals.** The Recitals above are true and correct and constitute a material part of this Agreement.
2. **Subject Road.** During the term of this Agreement, Town agrees to allows Company to use the road(s) under its jurisdiction as listed in this section by Heavy Vehicles to access the Leased Property during the construction of the Solar Project: **Pine Hill Road**. A map depicting the portion of such roads that are within the Town’s boundaries and that Company intends to use by Heavy Vehicles during construction of the Solar Project is attached to this Agreement as Exhibit B (as depicted on Exhibit B, herein the “Subject Road,” whether one or more).
3. **Initial Inspection.** Prior to Company’s use of the Subject Road by its Heavy Vehicles, the Parties shall meet to inspect the Subject Road (the “Initial Road Inspection”) and based on such Initial Road Inspection, shall prepare a mutually agreeable written report (the “Inspection Report”) that reasonably establishes and depicts (by video and/or photograph) the current condition of the Subject Road on the date of the Initial Road Inspection (the “Baseline Road Condition”). Notwithstanding the foregoing, in Company’s discretion, Company may retain a third-party civil engineer or other qualified professional (the “Engineer”) to conduct the Initial Road Inspection and prepare the Inspection Report (provided that Town and Company may each be present at the Initial Road Inspection undertaken by the Engineer). The Engineer shall be selected by Company and reasonably acceptable to Town. The Engineer shall be licensed under Wisconsin law (if licensure is required) and all costs of the Engineer shall be the sole responsibility of Company. The Inspection

Report (either as prepared by the Engineer or, if not by the Engineer, by the Parties) shall be conclusive and binding on both Parties, absent manifest error.

4. **Ongoing Obligations.** During the term of this Agreement:

- a. **Company's Obligations.** Company shall (or shall require its contractor, agent, or representative to) periodically inspect the Subject Road. Company shall promptly notify Town of any damage to the Subject Road that it observes during such inspections. Company may, in its sole discretion, retain the Engineer to conduct such periodic inspections of the Subject Road. The costs of any periodic inspections shall be Company's sole obligation.
- b. **Town's Obligations.** Town may, at its sole cost, inspect the Subject Road on such periodic basis as it determines and shall promptly notify Company of any damage to the Subject Road that it observes during such inspections. If during the term of this Agreement, Town becomes aware of any other construction projects in its jurisdiction that may require the use of the Subject Road by Heavy Vehicles, Town shall promptly notify Company of such other construction projects. If Town grants use of the Subject Road by Heavy Vehicles to a third party that is unaffiliated with Company, then Town and Company shall promptly determine a method to account for such additional use of the Subject Road by Heavy Vehicles belonging to such other party and the potential damage caused by such use.
- c. **Inspection Meetings.** Should any concerns arise regarding the condition of the Subject Road during the term of this Agreement, either Party may request a meeting of the Parties to inspect the Subject Road and compare the Subject Road's then-current conditions to the Baseline Road Condition. Company may retain the Engineer to be present at such meeting. The Parties will then discuss what repairs need to be done in order to return the Subject Road to the Baseline Road Condition reflected in the Inspection Report, provided that such repairs are needed as a result of Company's use of Heavy Vehicles on the Subject Road, normal wear and tear excepted and further provided that such repairs will be undertaken once construction of the Solar Project is complete.
- d. **Final Inspection.** Within ten (10) business days of the construction completion of the Solar Project, the Parties shall meet to inspect the Subject Road (the "**Final Road Inspection**") and to compare the then-current condition of the Subject Road to the Baseline Road Condition as set forth in the Inspection Report to determine what, if any, repairs are needed as a result of Company's use of Heavy Vehicles. Company may retain the Engineer to be present at the Final Road Inspection.

5. **Surveillance; Signage.** Town acknowledges that the Subject Road is a publicly accessible thoroughfare that Company does not control, and which may be used by the public twenty-four (24) hours a day, seven (7) days a week and that it would be impracticable or impossible for Company to observe all other users of the Subject Road who may also cause damage to such Subject Road. Therefore, Town grants Company the right to:

- a. place trail cameras or other recording or tracking devices over, along or next to the Subject Road.

- b. place directional signage along or next to the Subject Road to ensure that its employees, agents, and contractors (and their subcontractors) only use the Subject Road to access the Leased Property with Heavy Vehicles.

The placement of such devices or signage shall not interfere with traffic and traffic safety in any way (with the assessment of such interference being Town's sole determination) and shall not trespass upon any privately held property.

6. **Subject Road Damage, Repair, and Replacement.**

- a. As used in this Agreement, "damage" means a material adverse change in the condition of the Subject Road from the condition noted in the Initial Inspection Report and being due to usage of the Subject Road by Company's Heavy Vehicles and not a condition requiring ordinary and routine maintenance.

- b. If the Subject Road is damaged by Company's use, the Town shall be responsible for undertaking the necessary work to repair the Subject Road in accordance with Exhibit C, including, without limitation, retaining a qualified contractor to complete the repairs and ensuring that the repairs are completed in accordance with the Town's Code of Ordinances and other applicable law. Company shall be responsible for the cost to repairing any the damage that results from its use of it caused to Heavy Vehicles on the Subject Road (but subject to Company's right to dispute such damage in accordance with this Agreement). Once the Town's repair of the Subject Road is complete, the Town will issue an invoice for the cost of the repair work to Company, and Company shall pay the invoice in full within thirty (30) days of issuance. Company shall repair such damage within sixty (60) days of the date of the Final Road Inspection or, if Company disputes such damage, then within sixty (60) days of the date that the dispute is resolved by the Parties as provided in Section 6(c) (if it is determined that Company caused, and must repair, such damage); provided, however, this sixty (60) day period shall be reasonably extended in the event that Company cannot repair the damage in this time period for reasons outside of Company's control.

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- c. Company shall not be responsible for damage resulting from (i) use of the Subject Road by the public or Town or its agents, contractors or subcontractors (including its snowplow operators), (ii) weather conditions, fluctuations in temperature, snow, ice, or other natural occurrences or disasters, or (iii) ordinary wear and tear (collectively, "Other Causes").

- d. For avoidance of doubt, Company shall only be obligated to undertake pay for repairs of damage resulting from its use of the Subject Road by Heavy Vehicles, and not for the routine maintenance of such Subject Road, which shall be the sole responsibility of Town. In addition, Company shall only be obligated to undertake repairs of damage in accordance with the standards set forth in Section 6(f), and not to replace the Subject Road in its entirety. Company shall only be obligated to pay for repairs necessary to return the Subject Road to the condition that existed prior to its use by Company, as shown in the Inspection Report. Company shall not be obligated to replace the Subject Road in its entirety.

e. For purposes of this Agreement, it shall be presumed that any damage to the Subject Road during the term of this Agreement has been caused by Company's use of Heavy Vehicles. ~~Company may overcome this presumption by clear and convincing evidence that Other Causes caused the damage. If there is any disagreement or dispute as to the cause of the damage or scope of repairs, then in such event, the Parties shall attempt to amicably resolve the dispute between them within sixty (60) days. If the Parties are unable to do so in this time period, as may be extended by mutual agreement of the Parties, then either of them shall notify the other of an impasse. In such event, the subject matter for which no agreement can be reached shall be submitted to arbitration in accordance with the laws of the State of Wisconsin. For avoidance of doubt, a dispute as described herein (which shall be submitted to arbitration) is different than an event of default under Section 14.~~

~~f. Company is responsible for providing all materials, labor and equipment required in connection with any repair of damage to the Subject Road. Any repairs to the Subject Road by Company shall be completed in accordance with the specifications attached hereto as Exhibit C.~~

~~g.f. Town shall promptly notify Company that this Agreement is terminated (i) if there is no damage to the Subject Road determined to be the responsibility of Company at the Final Road Inspection or (ii) if Company is obligated to pay for the repair of any damage it has caused, then once Company has completed its repairs of the Subject Road to the reasonable satisfaction of Town paid the invoice in full. Upon any such termination of this Agreement, Company shall have no further obligations to Town or liability under this Agreement, except as expressly set forth herein.~~

7. **Debris/Obstructions.** In addition to performing the repairs described in Section 6 above, Company shall also keep the Subject Road free and clear of all debris and other obstructions caused by Company. However, Company is not responsible for any snowplowing of the Subject Road, which shall be the responsibility of Town.

8. **Heavy Vehicles; Other Vehicles.** This Agreement applies to Company and its employees, contractors (and their subcontractors), agents, representatives, and any other person using the Subject Road under the direction of or at the request of Company. As used in this Agreement, the term "**Heavy Vehicles**" means vehicles that are "Class A" vehicles, as such term is defined in Wis. Stat. s. 343.04(1). This Agreement only applies to the use of the Subject Road by Heavy Vehicles and does not prevent Company's employees, agents, representatives, contractors (or their subcontractors), or any other person using the Subject Road under the direction of or at the request of Company, from using the Subject Road by vehicles that are not Heavy Vehicles, and Company shall not incur repair obligations under this Agreement for use of the Subject Road by vehicles that are not Heavy Vehicles.

9. **Indemnity.** Each Party (the "**Indemnifying Party**") agrees to defend, indemnify, and hold harmless the other Party and the other Party's officers, directors, employees, agents, representatives, mortgagees, and agents (collectively, the "**Indemnified Party**") against any and all losses, damages, claims, costs (including reasonable attorney's fees and costs), expenses and liabilities (collectively, "**Losses**") for physical damage to property of third parties, and for physical injury to persons, to the extent resulting from or arising out of: (i) any operations or activities of the Indemnifying Party or any of its employees, invitees, officers, directors, agents, representatives, contractors, or agents; or (ii) any negligent or intentional act or omission on the part of the

Indemnifying Party or any of its employees, invitees, officers, directors, agents, representatives, contractors, and agents. The indemnification provided hereunder shall not apply to Losses to the extent caused by any negligent or intentional act or omission on the part of the Indemnified Party. This indemnification shall apply only to Losses arising from events occurring during the term of this Agreement. The indemnification provisions of this section shall survive the termination or expiration of this Agreement. For the avoidance of doubt, this indemnification provision does not apply to any damage that Company may cause to the Subject Road by its use of Heavy Vehicles.

10. **Insurance.** During the term of this Agreement, Company shall have the following insurance coverage: (i) workers compensation insurance in amounts required by the laws of the State of Wisconsin, (ii) owned and non-owned automobile insurance for all of its automobiles using the Subject Road, and (iii) commercial general liability insurance of at least \$1,000,000 for any single accident and \$2,000,000 annual aggregate, in which Town is named as an additional insured. When Company provides the Construction Notice under Section 13, Company shall also provide Town with a certificate evidencing the foregoing insurance coverage, together with an additional insured endorsement to the commercial general liability policy.

11. **Notices.** All notice sent hereunder shall be in writing and shall be delivered personally or sent by certified U.S. mail or by a nationally recognized overnight delivery service, and addressed to the respective Parties at:

Town:

Town of Cross Plains  
Attn: Greg Hyer, Town Chair  
3734 County Road P  
Cross Plains, WI 53528

Company:

Pine Hill Solar, LLC  
c/o OneEnergy Development, LLC  
Attn: Nolan Stumpf  
10 N. Livingston St., Suite 201  
Madison, WI 53703

All notices shall be deemed given upon personal delivery, three (3) days after being deposited in the U.S. mail, or two (2) business days after being deposited with an overnight delivery service.

12. **Assignment.** This Agreement cannot be assigned, except upon the written consent of the non-assigning Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Company may assign this Agreement to its subsidiary or affiliate without the prior written consent of Town, provided that Company's subsidiary or affiliate agrees in writing to fully assume the rights and obligations of Company as set forth in this Agreement and provided that Town is promptly notified of such assignment.

13. **Term.** Notwithstanding an earlier date that may be set forth in the first paragraph above, the obligations of Company and Town under this Agreement (including, but not limited to, fines or liability for damage) shall only commence when Company physically occupies the Leased Property in order to construct the Solar Project. Company shall notify Town of the date it intends to

begin construction (the “Construction Notice”) and the date set forth in the Construction Notice shall be the date that the obligations of Company and Town under this Agreement commence. This Agreement shall terminate as provided under Section 6(fg). The termination or expiration of this Agreement shall not relieve a Party from any obligation hereunder which accrued, but was not completed, prior to the date of such termination or expiration.

14. **Default; Remedies.** In the event of a default under this Agreement, the non-defaulting Party shall give notice to the defaulting Party specifying the nature of the default and the requested cure, and the defaulting Party shall then have up to sixty (60) days from the date of notice in which to cure such default. If the default is not cured within the foregoing period, then the non-defaulting Party may elect to terminate this Agreement immediately and without further notice. Notwithstanding such termination, the Parties shall be responsible for the performance of all of the obligations set forth herein, which have accrued, but not been completed, prior to the date of termination of this Agreement. In the event of a default hereunder, the non-defaulting Party may, subject to the rights of notice and cure herein, proceed to exercise any and all rights and remedies provided for by law or in equity, including an order for specific performance.

15. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof. This Agreement may not be amended, modified or supplemented except in a writing executed by both Parties. Any exhibits attached to this Agreement are intended to be and are specifically made part of this Agreement for all purposes.

16. **No Waiver.** Neither Party shall be deemed to have waived any provision of this Agreement or any remedy available to it unless such waiver is in writing and signed by the Party against whom the waiver would operate. Any waiver at any time by either Party of its rights with respect to any rights arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent or other matter.

17. **Relationship of Parties.** The duties, obligations and liabilities of each of the Parties are intended to be several and not joint or collective. This Agreement shall not be interpreted or construed to create an association, joint venture, fiduciary relationship or partnership between the Parties or to impose any partnership obligation or liability or any trust or agency obligation or relationship upon either Party. Neither Party shall have any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act or be an agent or representative of, or to otherwise bind, the other Party.

18. **Attorneys’ Fees.** In the event of any action between the Parties hereto for enforcement or interpretation of any of the terms or conditions of this Agreement, the prevailing Party in such action shall be entitled to recover its reasonable attorneys’ fees actually incurred, together with its other reasonable out-of-pocket costs and expenses, including expert witness fees, accounting and other professional fees.

19. **Waiver of Jury Trial.** EACH PARTY HERETO WAIVES, TO THE FULL EXTENT PERMITTED BY LAW, THE RIGHT TO A JURY TRIAL IN ANY LITIGATION CONCERNING THIS AGREEMENT OR ANY DEFENSE, CLAIM, COUNTERCLAIM, CLAIM OF SET-OFF OR SIMILAR CLAIM OF ANY NATURE.

20. **Partial Invalidity.** If any term or provision of this Agreement is, to any extent, determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be

valid and enforceable to the fullest extent permitted by law.

21. **Counterparts**. This Agreement may be executed in two or more counterparts (including by means of signatures transmitted by facsimile or email, or by electronically generated signatures, including, without limitation, by DocuSign or AdobeSign) each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

22. **No Strict Construction**. Each of the Parties confirms that it has reviewed, negotiated and adopted this Agreement as the joint agreement and understanding of the Parties, and further confirms that it has had the opportunity to have this Agreement reviewed by its counsel, in its sole discretion. The language used in this Agreement shall be deemed to be the language chosen by the Parties to express their mutual intent and no rule of strict construction shall be applied against either Party.

23. **Governing Law**. This Agreement shall be construed in accordance with the laws of the State of Wisconsin.

*[Remainder of page left blank. Signature page follows.]*

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first set forth above.

TOWN:

Town of Cross Plains  
A Wisconsin municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

COMPANY:

Pine Hill Solar, LLC  
A Delaware limited liability company

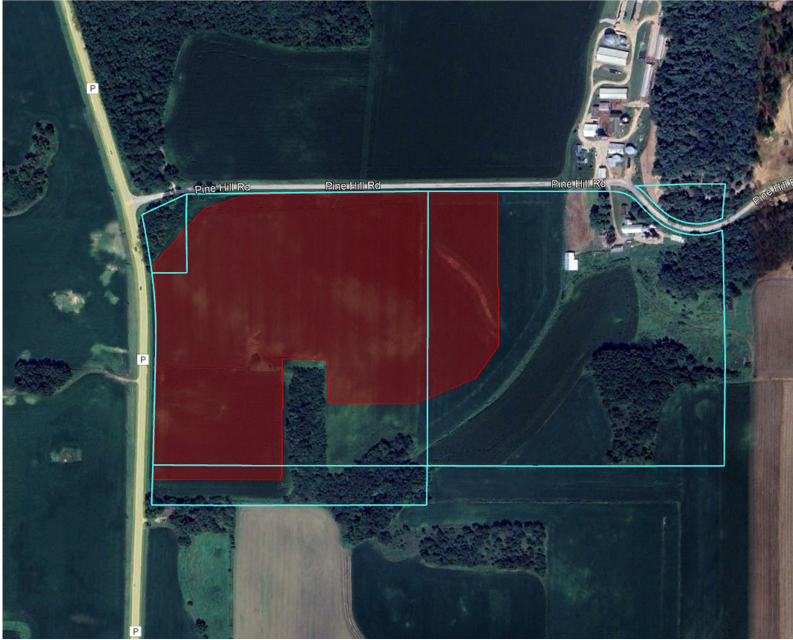
By: OneEnergy Development, LLC  
A Delaware limited liability company  
Its sole member

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

Map of the Leased Property

Blue – parcel boundary  
Red – project area



**EXHIBIT B**

Map of Subject Road



## EXHIBIT C

### Road Repair Specifications

- ~~If the Subject Road is a~~ Asphalt Repair; ~~Company shall~~ patch the road using “hot mix” or “cold mix” asphalt, ~~as appropriate, to repair any damage that was caused by Company.~~ Formatted: Underline
  
- ~~If the Subject Road is a~~ Gravel Repair; ~~Company shall~~ regrade portions of the Subject Road as necessary to remove any ruts, bumps or potholes ~~that were caused by Company~~, and then recompact such regraded portions of the Subject Road. Formatted: Underline
  
- ~~For the avoidance of doubt, and as further set forth in the Agreement, Company shall:~~
  - ~~only be obligated to repair the road damage it caused during its use of the Subject Road;~~
  - ~~only be obligated to return the Subject Road to the condition that existed prior to its use by Company, as shown in the Inspection Report; and~~
  - ~~not be obligated to replace the Subject Road in its entirety.~~ Formatted: Indent: Left: 0.5", No bullets or numbering