

First Reading: July 21, 2020

ORDINANCE No. 64-39

2nd & Final Reading: August 18, 2020

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINDEN, COUNTY OF UNION, NEW JERSEY, AUTHORIZING A GRANT OF EASEMENT FOR TRANSMISSION, CONSTRUCTION, AND ACCESS OVER BLOCK 581, LOTS 11.03 AND 17 AS SHOWN ON THE OFFICIAL TAX MAP OF THE CITY OF LINDEN, IN FAVOR OF LINDEN HAWK RISE SOLAR, LLC PURSUANT TO N.J.S.A. 40A:12A-1 ET SEQ.

WHEREAS, the City of Linden (the “City”) is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the City has previously undertaken a competitive process for the lease and development of a solar photovoltaic system via the New Jersey Board of Public Utility Community Solar Program on a portion of the City’s former municipal landfill; and

WHEREAS, pursuant to N.J.S.A. 40A:12-1 *et seq.*, the City received bid proposals and awarded a lease for the project to Linden Hawk Rise Solar, LLC a/k/a CS Energy (the “Grantee”); and

WHEREAS, Grantee and the City executed that certain Lease Agreement dated November 15, 2019, which is incorporated herein by reference (the “Lease”); and

WHEREAS, the City owns certain real property commonly known as Block 581, Lots 11.03 and 17 on the tax map of the City (the “Site”), identified on Exhibit A to the Lease and located in the County of Union, State of New Jersey; and

WHEREAS, in accordance with the criteria set forth in the Redevelopment Law, by Resolution dated May 30, 2001, the City Council (“City Council”) of the City of Linden (the “City”) designated the Site “an area in need of redevelopment” (the “Redevelopment Area”); and

WHEREAS, pursuant to the Redevelopment Law the City Council adopted a redevelopment plan for the Redevelopment Area entitled “Redevelopment Plan – Municipal Landfill Redevelopment Project” dated May 10, 2001, which was subsequently amended on February 18, 2020 (the “Redevelopment Plan”); and

WHEREAS, the Grantee intends to develop, construct, operate, and maintain the “Project”, as defined in the Lease, within the Redevelopment Area; and

WHEREAS, the Grantee has requested an easement, substantially in the form attached hereto as **Exhibit A** (the “Easement”) for the construction, installation, operation, maintenance, repair, and replacement of a distribution line and interconnection equipment which will be used for purposes of transmission and distribution to the Project and the commercial power grid, and for access to the Project and such easement area, all located within the Redevelopment Area; and

WHEREAS, pursuant to the N.J.S.A. 40A:12A-1 *et seq.*, the City may convey property or improvements to any other party without public bidding and at such prices and upon such terms as it deems reasonable, provided such conveyance is made in conjunction with a redevelopment plan (N.J.S.A. 40A:12A-8.g.); and

WHEREAS, in consideration for the Easement, the Grantee shall pay the City the sum of \$10,000.00 annually, as further set forth in the First Amendment to the Lease; and

WHEREAS, the City is desirous of conveying the Easement to the Grantee in

order to effectuate the Project within the Redevelopment Area under the terms and conditions described therein.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Linden, County of Union, New Jersey that:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The City Council hereby authorizes and approves the Easement substantially in the form attached hereto as Exhibit A, with any modifications to be approved by the City's legal counsel.

Section 3. The City Council hereby authorizes the Mayor, City Clerk, and other necessary City officials to execute, deliver, and accept the Easement and all other necessary documents and undertake all actions reasonably necessary to effectuate the aforementioned Easement and this Ordinance, in consultation with the City's legal counsel.

Section 4. If any section, paragraph, subdivision, clause, sentence, phrase, or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

Section 5. A copy of this Ordinance and the Easement shall be available for public inspection at the offices of the City Clerk during regular business hours.

Section 6. This Ordinance shall take effect in accordance with all applicable laws.

PASSED: August 18, 2020

APPROVED: August 19, 2020

ATTEST:

President of Council

Mayor

City Clerk

I, JOSEPH C. BODEK, City Clerk of the City of Linden, in the County of Union and State of New Jersey, DO HEREBY CERTIFY that the foregoing is a true copy of the ordinance adopted by the City Council of the City of Linden at a meeting held on August 18, 2020 as the same is taken from and compared with the original now remaining on file and of record in my office.

IN WITNESS WHEREOF, I have set my hand and affixed the corporate seal of the City of Linden, this 19th day of August, 2020.

JOSEPH C. BODEK, City Clerk

EXHIBIT A
**EASEMENT FOR TRANSMISSION, CONSTRUCTION,
AND ACCESS**

EASEMENT FOR TRANSMISSION, CONSTRUCTION, AND ACCESS

THIS AGREEMENT made this ____ day of August, 2020, between the CITY OF LINDEN, the grantor, hereinafter called the CITY, and LINDEN HAWK RISE SOLAR, LLC, hereinafter called the GRANTEE.

WHEREAS, on November 15th, 2019, the CITY and the GRANTEE executed the “Lease Agreement between the City of Linden and Linden Hawk Rise Solar, LLC”, which is incorporated herein by reference (the “Lease”);

WHEREAS, the CITY owns that certain real property, located on Block 581, Lots 11.03 and 17, hereinafter called the Site, identified on Exhibit A to the Lease and located in the County of Union, State of New Jersey;

WHEREAS, the GRANTEE intends to develop, construct, operate and maintain the “Project” under and as defined in the Lease, being a solar photovoltaic system facility;

WHEREAS, the GRANTEE has requested an easement for the construction, installation, operation, maintenance, repair, and replacement of a distribution line and interconnection equipment which will be used for purposes of transmission and distribution to the Project and the commercial power grid (“Interconnection Facilities”) and access to the “Project” (as defined in the Lease and such easement area (collectively, the “PREMISIS”), which will be used by the GRANTEE on, in, through, under, upon, across and over that portion of the Site hereinafter described; and

WHEREAS, the CITY has found that the granting of such easements on the terms and conditions hereinafter stated is necessary for the undertaking of the Project;

WHEREAS, in consideration for the easement granted hereunder, the GRANTEE shall pay the CITY the sum of \$10,000.00 annually, as further set forth in the First Amendment to the Lease (the “First Amendment”);

NOW THEREFORE, in consideration of the foregoing premises, the promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows CITY hereby grants to the GRANTEE and its successors and assigns, for the period beginning on the Delivery Date as described in the Lease and ending upon the termination of the Lease (the “Term”), the easement set forth in paragraph 2 below (collectively, the “Easement”):

1. CONSIDERATION. In consideration for the Easement granted hereunder, the GRANTEE shall pay the CITY the sum of \$10,000.00 annually, as further set forth in the First Amendment.

2. EASEMENT; ACCESS BY GRANTEE. CITY hereby grants and conveys to GRANTEE the following Easement:

A non-exclusive easement for access and rights of ingress and egress to the PREMISIS and the construction, installation, operation, maintenance, repair, and replacement of the Interconnection

Facilities and for interconnection and utility facilities in connection with the "Project" (the "Easement"), in gross, upon, through, over, under, across and along the portions of the Site, as more particularly described on Exhibit A attached hereto and incorporated herein.

The GRANTEE shall have the right to allow its invitees, licenses, contractors, subcontractors, employees, agents and representatives, and their respective permitted successors and assigns, to use the PREMISES, together with the necessary rights of ingress and egress authorized by the CITY, subject to the terms and conditions hereof.

3. USE BY CITY. The CITY may use the PREMISES of the Easement for any purpose that does not unreasonably interfere with the use and enjoyment by the GRANTEE of the rights granted by this agreement.

4. SUBJECT TO EXISTING AND FUTURE EASEMENTS. The Easement are granted subject to all other existing easements, if any, of public record and unrecorded to the extent granted by the CITY, and to such utility lines, roadways, or other improvements as may now be located on, over, or under the PREMISES, and to the right of the CITY to grant such additional easements and rights of way on, in, under, across, through and over the PREMISES as it shall determine to be in the public interest, provided that such additional easements and rights of way will not unreasonably interfere with the GRANTEE's use of the PREMISES in accordance with the terms of this agreement.

5. CONSTRUCTION; APPROVAL OF PLANS. All work performed by the GRANTEE, its agents, or contractors in connection with the construction, installation, operation, maintenance, repair, and replacement of the Interconnection Facilities shall be done without cost or expense to the CITY and in accordance with the requirements set forth in the Lease, including but not limited to Section X of the Lease, which requires, amongst other items, prior written approval of work plans and delivery of certificates of insurance to the CITY.

6. RESTORATION. In accordance with Section IV of the Lease, except as otherwise stated in the Lease, or upon the CITY's written approval, upon expiration or earlier termination of the Lease, the GRANTEE shall, unless otherwise agreed by the parties, promptly remove the improvements and restore the PREMISES to substantially the same condition that existed when the Term of this agreement began.

Upon completion of any work performed in or upon the PREMISES, the GRANTEE, at its own expense, shall remove all equipment and unused or surplus materials, if any, and shall restore the PREMISES to the same, or as good a condition as existed prior to the initiation of such work, and in a manner satisfactory to the CITY as determined by the CITY's Department of Public Works and Engineering.

7. PROTECTION AND MAINTENANCE OF PREMISES. The GRANTEE, at its own cost and expense, shall maintain the PREMISES and the Interconnection Facilities in good condition at all times and shall promptly make all repairs that may be necessary for the preservation of the condition of the PREMISES and the continued operation and maintenance of the Interconnection Facilities.

8. DAMAGE TO THE PREMISES. The GRANTEE, at its expense, shall repair or restore any damage to CITY property that may occur during the construction, installation, operation, maintenance, repair, and replacement of the Interconnection Facilities to the reasonable satisfaction of the CITY. The GRANTEE, its employees, authorized agents and contractors shall reimburse the CITY for any and all actual costs, direct and indirect, incurred by the CITY as a result of any damage to the PREMISES caused by their individual or collective actions.

9. APPLICABLE RULES AND REGULATIONS. The GRANTEE's rights hereunder shall be subject to such reasonable rules and regulations as may be prescribed by the CITY to assure that the exercise of those rights will not unreasonably interfere with the CITY's activities at the Site.

10. INDEMNIFICATION. The GRANTEE shall indemnify and defend the CITY against, and hold the CITY harmless from, any costs, expenses, liabilities, fines, suits, actions, damages, liability and cause of action arising or growing out of, or in any way connected with, the occupation or use of the PREMISES by the GRANTEE and its employees, agents, servants, guests, and invitees. However, this liability shall not extend to matters caused by the CITY's negligent or willful acts. This provision shall survive the expiration or termination of the Easement and the GRANTEE's obligations hereunder shall apply whenever the CITY incurs costs or liabilities for the GRANTEE's actions.

11. GRANTEE'S RESPONSIBILITY. The CITY shall not be responsible for damages to property or injuries to persons that may arise from, or be incident to, the use and occupation of the PREMISES by the GRANTEE, or for damages to the property or injuries to the persons of the CITY's officers, agents, servants, or employees, or others who may be on the PREMISES at their invitation or the invitation of any one of them arising from or incident to governmental activities except as permitted under law.

12. ROAD CONNECTIONS/CITY RESERVATION. The CITY reserves the right to make whatever connections between the road herein authorized and other roads on the Site that the CITY may consider necessary. It also reserves to itself easements for all purposes on, in, through, under, upon, across and over the PREMISES; provided, however, that such reserved easements shall be used in a manner that will not unreasonably interfere with the use and enjoyment by the GRANTEE of the easement rights granted herein.

13. ROAD SURFACE AND DESIGN. The road restoration shall be performed in order to return the road to existing condition. All conduit and associated junction boxes within the road shall comply with New Jersey H-20 loading standards.

14. ENVIRONMENTAL PROVISIONS.

a. The GRANTEE shall comply with all applicable environmental laws, ordinances, rules, and regulations and all other Federal, state, and local laws, ordinances, regulations, and standards that are or may become applicable to the GRANTEE's activities on the PREMISES.

b. The GRANTEE shall be, at its sole cost and expense, solely responsible for obtaining any environmental permits required for its activities on the PREMISES.

c. The CITY's rights under this agreement specifically include the right for its representatives to inspect the PREMISES for compliance with environmental, safety, and occupational health laws and regulations, whether or not the CITY is responsible for enforcing them. The inspections shall be made without prejudice to the right of duly constituted enforcement officials to make them. The GRANTEE shall have no claim on account of any entries against the CITY or any of its officers, agents, employees, contractors, or subcontractors.

d. Storage, treatment, or disposal of toxic or combustible hazardous materials on the PREMISES is prohibited except as authorized by the CITY.

e. The GRANTEE will not use Site accumulation points for hazardous and other wastes or permit its hazardous wastes to be commingled with hazardous wastes of the CITY.

f. The GRANTEE shall be solely responsible for any releases, discharges, emissions, spills, storage, treatment, disposal of toxic or hazardous wastes, substances, or materials, or any other acts or omissions by GRANTEE, its officers, agents, employees, or contractors, or licensees, or the invitees of any of them related to releases, discharges, emissions, spills, storage, treatment, disposal of toxic or hazardous wastes, substances, or materials, giving rise to CITY liability, civil or criminal, or responsibility under applicable laws or regulations. Notwithstanding any other provision hereof, GRANTEE does not assume any liability or responsibility for environmental impacts or damage caused by CITY'S (or any previous easement holder's, license holder's, or right-of-way holder's) use, storage, release, discharge, emission, spillage, treatment, or disposal of toxic or hazardous wastes, substances, or materials on any portion of the Site, including the PREMISES. GRANTEE has no obligation hereunder to undertake the defense of any claim or action, whether in existence now or brought in the future, solely arising out of the use, storage, release, discharge, emission, spillage, treatment, or disposal of any toxic or hazardous wastes, substances, or materials on, or from any part, of the Site, including the PREMISES, which occurred prior to the first day of the GRANTEE's occupation or use of each portion of the PREMISES under any instrument entered into between the parties. Further, GRANTEE has no obligation hereunder to undertake environmental response, remediation, or cleanup actions relating to CITY's (or any previous easement holder's, license holder's, or right-of-way holder's) use, storage, release, discharge, emission, spillage, treatment, or disposal.

g. The GRANTEE shall, to the extent permitted under applicable law, indemnify and hold harmless the CITY from, and defend the CITY against, any damages, costs, expenses, liabilities, fines, suits, actions, or penalties resulting from releases, discharges, emissions, spills, storage, treatment, disposal, or other acts or omissions by the GRANTEE, its officers, employees, agents, contractors, licensees, or the invitees of any of them, giving rise to Government liability, civil or criminal, or responsibility under federal, state or local environmental laws. This Paragraph shall survive the expiration or termination of the Easement, and the GRANTEE's obligations under this Paragraph shall apply whenever the CITY incurs costs or liabilities for the GRANTEE's actions. However, this liability shall not extend to matters caused by the CITY's negligent or willful acts or for other items the CITY retains responsibilities for pursuant to the Lease.

h. The GRANTEE shall strictly comply with the hazardous waste permit, storage, handling, and disposal requirements under the Solid Waste Management Act. The GRANTEE must provide at its own expense any hazardous waste storage facilities, complying with all laws and regulations that it may need for storage. Site hazardous waste storage facilities will not be available to the GRANTEE.

15. ENVIRONMENTAL CONDITION OF PROPERTY.

a. A non-invasive site assessment Site will be performed by GRANTEE to document the condition of the Site prior to any construction. Upon the termination or expiration of the Easement, the environmental condition of the PREMISES shall be evaluated and prepared to note the environmental condition of the property at that time. A comparison of the assessments shall be made to determine the extent, if any, of liability on the part of the GRANTEE. For the avoidance of doubt, should an invasive site assessment be desirable or necessary, GRANTEE shall seek prior approval from the CITY and provide the CITY the opportunity to review the scope of work.

b. For purposes of this agreement the following terms shall have the following meanings:

(1) "Hazardous Substances" means all manner of substances, pollutants, contaminants, and waste to which Applicable Environmental Laws pertain, expressly including petroleum, petroleum products, and materials defined in N.J.A.C. 58:10-23.11b.

(2) "Contamination" or "contaminant" means any discharged hazardous substance, hazardous waste as defined by N.J.A.C. 13:1E-38, or pollutant, as defined pursuant to N.J.A.C. 58:10A-3.

(3) "Applicable Environmental Laws" shall mean:

(a) Any and all common law, statutes, regulations, codes, directives, orders, or ordinances of any federal, state, or local government entity, authority, agency, and/or department with requisite authority dealing with environmental matters at the Property (whether heretofore, now in effect or hereinafter enacted or promulgated or amended) and any amendments to the thereto;

(b) Executive Orders of the President of the United States;

(c) decisions of courts and administrative tribunals of competent jurisdiction; and

(d) administrative orders of regulatory agencies of competent jurisdiction (involuntary or on consent).

(4) Applicable Environmental Laws include, without limitation, the New Jersey Industrial Site Recovery Act, N.J.S.A. 13:1K-6 et. seq., the Toxic Substances Control Act, 15 U.S.C. §2601 et seq., the Federal Comprehensive Environmental Response, Compensation And Liability Act ("CERCLA"), 42 U.S.C. §9601 et seq., and all reauthorizations and amendments thereto or the

New Jersey Spill Compensation Control Act, N.J.S.A. 58:10-23.11 et seq.) which relates to the condition of the Easement Area.

(5) “Discharge” means any intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous substances into the waters or onto the lands of the State of New Jersey pursuant to N.J.A.C. 58:10-23.11b.

(6) “Remedial Action” means: actions taken at a site or offsite if a contaminant has migrated or is migrating therefrom, as may be required by NJDEP, including the removal, treatment, containment, transportation, securing, or other engineering or treatment measures, whether to an unrestricted use or otherwise, designed to ensure that any discharged contaminant at the site or that has migrated or is migrating from the site, is remediated in compliance with the applicable health risk or environmental standards pursuant to N.J.A.C. 58:10-23.11b.

c. If during the Term of this agreement the GRANTEE becomes aware that a Discharge of Hazardous Materials has occurred due to acts or omissions of the GRANTEE, its agents, or contractors, whether or not such Discharge results in Contamination of the PREMISES, the GRANTEE will give verbal notice and written notice to the CITY as soon as practicable under the circumstances, but no later than within 24 hours of becoming aware of the Discharge, providing all relevant facts and circumstances. The CITY may direct the GRANTEE to make a detailed written report of these facts and circumstances within a time certain.

d. The GRANTEE, at its sole expense, will promptly take all action necessary to comply with Applicable Environmental Laws pertaining to a Discharge described in subparagraph 15(a) including but not limited to: report the occurrence to appropriate Federal, state, or local regulatory authorities, if so directed by the CITY; take timely and effective steps to minimize the Discharge and its impact on human health and the environment; and take the necessary Remedial Action. The CITY may direct the GRANTEE to provide all information requested by the CITY regarding such actions within a time certain.

e. The GRANTEE will ensure that all activities conducted on the PREMISES by the GRANTEE, its agents, or contractors are carried out in compliance with Applicable Environmental Laws. The GRANTEE will provide verbal and written notice to the CITY within 24 hours of receiving any complaint, order, directive, claim, citation, or notice from any governmental authority or any other person or entity alleging noncompliance with or a violation of Applicable Environmental Laws on the PREMISES. The GRANTEE, at its sole expense, will promptly take all necessary action directed by Federal, state, or local regulatory authorities of competent jurisdiction to achieve or regain compliance with Applicable Environmental Laws. The CITY may direct the GRANTEE to make a detailed written report, within a time certain, of the facts and circumstances underlying the alleged noncompliance or violation. Without limitation of the foregoing, the CITY, in response to acts or omissions of the GRANTEE, its agents, or contractors may, in its discretion, take Remedial Action to remedy Contamination on the PREMISES or to achieve or regain compliance with Applicable Environmental Laws.

f. The CITY may at any time inspect the PREMISES or cause the PREMISES to be inspected, to assess whether the operations of the GRANTEE, its agents, or contractors are in compliance with Applicable Environmental Laws. To assist in this evaluation, the GRANTEE, its agents, and contractors will provide to the CITY, or any third-party vendor, as the CITY may direct, for examination and copying, all relevant books, records, documents, and other material in their possession.

g. The CITY, with good cause, may from time-to-time require the GRANTEE to conduct tests and analyses to assess whether the PREMISES are in compliance with Applicable Environmental Laws, and based on the results thereof, to so certify to the CITY. Such tests and analyses shall be conducted in a manner satisfactory to the CITY by recognized professionals approved by the CITY. If the CITY and the GRANTEE cannot reach agreement as to what tests and analyses shall be conducted, by whom, and when, the CITY may perform such tests and analyses or cause such tests and analyses to be performed.

h. GRANTEE shall apply for and be granted a landfill disruption permit pursuant to N.J.A.C. 7:26-2A.8(j) from NJDEP's Division of Solid and Hazardous Waste as required.

16. FAILURE TO INSIST ON COMPLIANCE. The failure of the CITY to insist, in any one or more instances, upon performance of any of the terms, covenants or conditions of this agreement shall not be construed as a waiver or relinquishment of the CITY's right to the future performance of any such terms, covenants or conditions and the GRANTEE's obligations for their future performance shall continue in full force and effect.

17. GOVERNMENT FUNDS. This agreement does not obligate the CITY to expend any appropriated funds.

18. ASSIGNMENT / TRANSFER / MORTGAGE. The GRANTEE shall have the right to assign, transfer, or mortgage any of the Easement or its interests therein provided that GRANTEE shall comply with Section 5 of the Lease, including any Government approvals required therein, in order to effectuate such assignment, transfer, or mortgage.

19. TERMINATION; ALTERNATE LOCATION.

a. If, at any time, the CITY determines that the Interconnection Facilities, or any portion thereof, poses a risk to life, health, or safety, the CITY, provided that it gives GRANTEE four (4) months advanced notice, shall have the right to terminate this agreement and the Easement, in whole or in part, to the extent necessary to eliminate the interference. However, CITY shall, concurrently with its four (4) months advanced notice, offer to convey to the GRANTEE, without charge, substitute easements permitting the GRANTEE to (1) relocate the Interconnection Facilities, or any portion thereof, on adjacent City property, which relocation shall be accomplished at the GRANTEE's cost and expense, provided that CITY shall provide reasonable and expedited assistance to the GRANTEE in achieving such relocation, and (2) enjoy the same or substantially equivalent rights to access the Project Area as the rights granted hereunder. The substitute easements shall contain the same terms and conditions as those in this agreement, and shall bear the same expiration date, if any.

b. All or any part of this agreement and the Easement may be terminated upon failure by the GRANTEE to comply with any of its terms and conditions; upon abandonment of the rights granted herein; or upon non-use of those rights for a period of two (2) consecutive years.

c. The CITY shall not terminate the Easement for as long as the Lease or the replacement lease pursuant to Section IV of the Lease remains effective.

20. ADMINISTRATIVE COSTS AT EXPIRATION/TERMINATION OF EASEMENT. At the termination or expiration of this agreement, at the CITY's discretion, the GRANTEE shall be responsible for administrative costs associated with completing a final inspection of the PREMISES and providing a Environmental Conditions & Property Report.

21. SURRENDER. Upon any termination or expiration of the Easement, the GRANTEE, at its own expense and risk, shall promptly remove, to the extent required by the CITY, improvements, fixtures, and equipment installed or constructed hereunder, and shall restore the PREMISES to the same or as good a condition as that which existed prior to the exercise by the GRANTEE of its rights hereunder. The restoration shall be done in a manner satisfactory to the CITY or their designated representative and in accordance with applicable laws and regulations. If the GRANTEE fails to remove the property as required by the CITY, all improvements, chattels, and other items abandoned by the GRANTEE become City property ninety (90) days following the date of termination or expiration of all of the Easement. If the CITY incurs any cost to remove the items abandoned by the GRANTEE, the GRANTEE shall reimburse the CITY for any and all actual costs, direct and indirect, incurred by the CITY.

22. ADDITIONS, MODIFICATIONS AND DELETIONS. Prior to the execution of this agreement, the following additions, modifications and deletions were made:

23. CONTRACT CONSTRUCTION. This Easement supplements and amends the Lease. Should any provisions between the Lease and Easement conflict, the Lease shall govern.

24. ATTACHMENTS.

- a) A –Easement survey and legal description
- b) B – Lease Memorandum

IN WITNESS WHEREOF, the parties hereto have caused this EASEMENT FOR TRANSMISSION, CONSTRUCTION AND ACCESS to be executed by their duly authorized representatives as of the day and year first written above.

GRANTOR

CITY OF LINDEN

By: _____
Derek Armstead
Mayor
City of Linden

GRANTEE

LINDEN HAWK RISE SOLAR, LLC

By: _____
Eric K. Millard
Chief Commercial Officer

ACKNOWLEDGEMENT

STATE OF _____
CITY/COUNTY OF _____

On _____ before me, _____, a Notary Public, personally appeared Derek Armstead, personally known to me (or proved to me on the basis of satisfactory evidence) to be the Mayor of the City of Linden, and acknowledged to me that he/she executed the same in his/her authorized capacity, and that his/her signature on this instrument was his/her act and deed as Mayor of City of Linden

NOTARY PUBLIC

My Commission Expires _____.
Registration No. _____.

STATE OF _____
CITY/COUNTY OF _____

On _____ before me, _____, a Notary Public, personally appeared Eric K. Millard, personally known to me (or proved to me on the basis of satisfactory evidence) to be the Chief Commercial Officer of Linden Hawk Rise Solar, LLC, and acknowledged to me that he/she executed the same in his authorized capacity, and that his signature on this instrument was his act and deed as Chief Commercial Officer of Linden Hawk Rise Solar, LLC.

NOTARY PUBLIC

My Commission Expires _____.
Registration No. _____.

EXHIBIT A

EASEMENT SURVEY

**[SEE ATTACHED SURVEY, SITE DRAWING AND METES AND BOUNDS
DESCRIPTION, PREPARED BY PROFESSIONAL LAND SURVEYOR, DATED 06-17-
2020]**

EXHIBIT B

**[LEASE MEMORANDUM DATED NOVEMBER 15, 2019;
ON FILE WITH THE CITY CLERK]**

LOWER ROAD

(ROW VARIES)

P.O.B. PROPOSED UTILITY & ACCESS EASEMENT

EXISTING 15' WIDE EASEMENT TO TEXAS EASTERN TRANS. CORP.

BLOCK 581
LOT 11.05
LANDS N/E
FIABILA PROPERTY, LLC

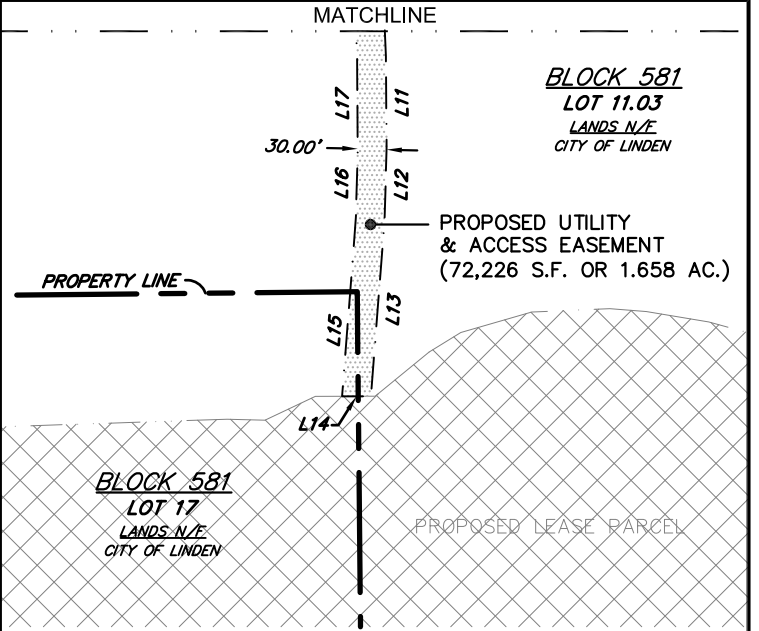
BLOCK 581
LOT 17
LANDS N/E
CITY OF LINDEN

BLOCK 581
LOT 11.06
LANDS N/E
PHILLIPS 66 COMPANY

BLOCK 581
LOT 11.03
LANDS N/E
CITY OF LINDEN

PROPOSED UTILITY & ACCESS EASEMENT
(72,226 S.F. OR 1.658 AC.)

PROPOSED LEASE PARCEL



Easement Line Table

Line-#	BEARING & DISTANCE
L1	S02°03'38"W - 308.81'
L2	S00°50'54"W - 69.20'
L3	S02°36'59"W - 585.41'
L4	S02°32'18"W - 392.79'
L5	S01°01'17"W - 63.30'
L6	S88°01'00"E - 46.73'
L7	S00°51'33"W - 71.67'
L8	N89°08'27"W - 64.42'
L9	S04°58'31"E - 210.33'
L10	S02°18'57"E - 122.37'
L11	S00°24'22"E - 96.55'
L12	S01°32'43"W - 73.09'
L13	S04°25'31"W - 184.83'
L14	S89°50'09"W - 30.10'
L15	N04°25'31"E - 186.49'
L16	N01°32'43"E - 71.82'
L17	N00°24'22"W - 95.54'
L18	N02°18'57"W - 121.17'
L19	N04°58'31"W - 204.02'
L20	N13°24'09"W - 106.89'
L21	N01°01'17"E - 63.70'
L22	N02°32'18"E - 393.21'
L23	N02°36'59"E - 584.97'
L24	N00°50'54"E - 69.05'
L25	N02°03'38"E - 309.08'
L26	S88°01'22"E - 30.00'

Easement Curve Table

Curve-#	Radius	Length	Delta	Chord Direction	Chord Length
C1	40.00'	68.43'	98°01'08"	S47°59'17"E	60.39'
C2	70.00'	17.82'	14°25'26"	N06°11'26"W	17.58'

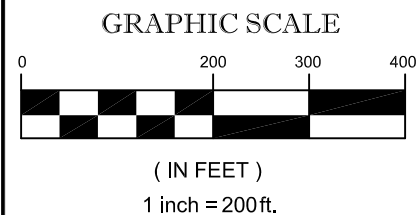


NOTES:

- PROPERTY KNOWN AS BLOCK 581, LOTS 11.03 AND 17 AS SHOWN ON THE CITY OF LINDEN TAX MAPS.
- BOUNDARY INFORMATION SHOWN HEREON PER REF. #1.
- PROPOSED LEASE PARCEL AND EASEMENT INFORMATION SHOWN HEREON PER REF. #2.

REFERENCES:

- MAP ENTITLED, "BOUNDARY AND TOPOGRAPHIC SURVEY, LINDEN HAWK RISE SOLAR PROJECT, BLOCK 581, LOTS 11.03 & 17, SITUATED IN CITY OF LINDEN, COUNTY OF UNION, NEW JERSEY", PREPARED BY CARROLL ENGINEERING, DATED 04-24-2020, 6 SHEETS.
- MAP ENTITLED, "SITE PLAN, LINDEN HAWK RISE SOLAR PROJECT, PRELIMINARY AND FINAL SITE PLAN, BLOCK 581 - LOTS 11.03 & 17, SITUATED IN CITY OF LINDEN, COUNTY OF UNION, NEW JERSEY", PREPARED BY CARROLL ENGINEERING, DATED 06-15-2020, SHEET 3 OF 10.



DATE:
06-17-20

FIELD DATE:
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DWG.
19-5446-000-ACCESS.DWG

JOB NO.
19-5446-000

DESIGN:
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DATE
06-17-2020

DRAWN:
J.P.J.

UTILITY & ACCESS EASEMENT EXHIBIT
LINDEN HAWK RISE SOLAR PROJECT
BLOCK 581, LOTS 11.03 & 17
CITY OF LINDEN, COUNTY OF UNION, NEW JERSEY

Carroll Engineering

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ERROL MELNICK
PROFESSIONAL LAND SURVEYOR N.J. LIC. NO. 24GS03401300

REVIEWED: E.M.	APPROVED: E.M.	SCALE 1"=200'	DWG NO. 400.5464	SHEETS 1 OF 1
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