



## **FLAT CREEK SOLAR**

**Permit Application No. 23-00054**

**§ 1100-2.25 Exhibit 24**

**Local Laws and Ordinances**

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## Acronym List

AR	Agricultural and Rural Residence District
FAA	Federal Aviation Administration
kV	kilovolt
LOD	Limit of Disturbance
MW	megawatt
NFPA	National Fire Protection Association
NYCRR	New York Codes, Rules and Regulations
NYS	New York State
ORES	Office of Renewable Energy Siting and Electric Transmission
POI	point of interconnection
RUA	Road Use Agreement
USCs	Uniform Standards and Conditions

## **Glossary Terms**

<b>Applicant</b>	Flat Creek Solar NY LLC, a subsidiary of Cordelio Power LP, the entity seeking a siting permit for the Facility from the Office of Renewable Energy Siting and Electric Transmission (ORES) under Article VIII of the New York State Public Service Law.
<b>Facility</b>	Flat Creek Solar, a 300 MW solar generating facility located in the Towns of Root and Canajoharie, NY. The proposed Facility components to be constructed for the generation, collection, and distribution of energy for Flat Creek Solar include solar panel modules, electrical collection system, collection substation, point of interconnection (POI) switchyard, access roads, laydown/staging areas, and other ancillary facilities.
<b>Facility Site</b>	The participating parcels encompassing Facility components, which totals approximately 3,794 acres in the Towns of Canajoharie and Root, Montgomery County, New York (Figure 2-1).
<b>Study Area</b>	The Study Area for the Facility includes a radius of five miles around the Facility Site boundary, unless otherwise noted for a specific resource study or Exhibit. The 5-mile Study Area encompasses approximately 108,667 acres, inclusive of the approximately 3,794-acre Facility Site.
<b>Limit of Disturbance (LOD)</b>	The area to which temporary construction impacts will occur, totaling approximately 1,637 acres.

## **Exhibit 24: Local Laws and Ordinances**

This Exhibit provides information required in accordance with the requirements of §1100-2.25 of the Article VIII Regulations.

The proposed Flat Creek Solar Project (the Facility) is a 300-megawatt (MW) solar energy facility located in the Town of Root and the Town of Canajoharie, Montgomery County, New York.

As part of the pre-application process the Applicant conducted outreach and consultation efforts through many forms of communication to deliver information and solicit feedback from the Towns throughout the development of the Facility. The outreach and consultation process included in-person meetings with Facility landowners, Town and County elected officials, and other municipal officers and employees and interest groups to provide stakeholders with a sound understanding of the Facility and to understand stakeholder positions regarding the Facility. These meetings provided the Applicant with the opportunity to learn stakeholders' interests and obtain suggestions on how to interact with the community. The Applicant began early engagement with stakeholders and is committed to continue to engage with all interested parties throughout the development process. For more details on the Applicant's public engagement see Exhibit 2, Section 2(b).

Prior to compiling this exhibit, the Applicant consulted with the local municipalities regarding the local requirements applicable to the Facility. The Applicant met with the Town of Root on January 24, 2024, and with the Town of Canajoharie on January 25, 2024. At this meeting the Applicant brought materials to review with the towns, including boards of the Facility layout, mapping of setbacks and materials directly related to Facility benefits. Town of Root and Canajoharie officials were the principal attendees at these meetings; a full list of attendees for each meeting is included as Appendix 2-3. The purpose of these meetings were to provide information about the Facility, the Article VIII process, unique aspects of the site and local community, to receive and discuss stakeholder interests and issues, to discuss local law provisions applicable to the Facility and identify certain provisions from which the Applicant planned to seek waivers from ORES, to show the Facility layout at the time of the meeting, and to discuss the status of completed and anticipated studies. During the local agency meetings, the Applicant additionally discussed applicable local laws. See Appendix 2-4 for copies of local municipal correspondence, including applicability of local laws, and meeting minutes from both the January 24<sup>th</sup>, 2024, meeting with the Town of Root and the January 25<sup>th</sup>, 2024 meeting with the Town of Canajoharie.

Engagement with stakeholders at an early stage has allowed for design improvements by incorporating stakeholder feedback into plans. The Applicant has designed the Facility in a manner that complies with local provisions to the maximum extent practicable, taking into consideration consultations with the Towns. However, as demonstrated in this Exhibit, there are certain substantive local law provisions with which the Facility cannot comply and require waivers from ORES.

## **24(a) Substantive Requirements Applicable to the Facility**

This section identifies all local ordinances, laws, resolutions, regulations, standards, and other requirements applicable to the construction or operation of the proposed facility that are of a substantive nature. The location and design of the Facility as proposed conforms to all such local substantive requirements, except those that the Applicant requests that ORES elect not to apply.

Below is a list of substantive provisions that may be applicable to the construction and operation of the Facility:

### ***Town of Canajoharie***

#### **Town of Canajoharie Solar Collector Systems Law (Local Law No. 2 of 2024)**

- Section 8: Supplementary Regulations For Tier 3 Solar Energy Systems
  - Subsection B: Permitting Requirements
- Section 9: Supplementary Regulations For Tier 4 Solar Energy Systems
- Section 11: Safety
- Section 12: Permit Timeframe and Abandonment

#### **Town of Canajoharie Flood Plan Management Regulations (Local Law 5 of 2017)**

The Town of Canajoharie has adopted Flood Plan Management Regulations, which establish areas of special flood hazards for the Town of Canajoharie. No above-ground Facility components are proposed in the areas of special flood hazard within the Town, so this law is not applicable to the Facility.

### ***Town of Root***

#### **Town of Root Solar Energy Facilities Law (Local Law No. 1 of 2024)**

- Section 5: Applicability

- Section 7: Requirements For Utility-Scale Solar Energy Systems
- Section 9: Abandonment or Decommissioning of Systems
- Section 10: Maintenance

### **Town of Root Town Code, Land Subdivision Regulations (2012)**

The Facility will interconnect to the New York State (NYS) electric grid via the POI switchyard which will be located in the Town of Root in the central portion of the Facility Site on Parcel ID: 96.-3-4 and Parcel ID: 96.-3-3, and is located directly south of the existing 345 kilovolt (kV), New York Power Authority (NYPA) Transmission Line #352. The Facility POI switchyard will connect the Facility with the NYPA transmission line by segmenting the existing line #352 and therefore installing two short 230-foot transmission lines (tap lines) from the existing ROW into the POI switchyard.

Again, as currently proposed, the POI switchyard will be located on Parcel ID: 96.-3-4 and Parcel ID: 96.-3-3. To accommodate the POI switchyard, the Applicant intends to combine portions of Parcel ID: 96.-3-4 and Parcel ID: 96.-3-3 to create a new parcel to be transferred to NYPA after Facility construction. The new parcel will host the POI switchyard and access road from Rappa Road to the east.

The Town of Root does not have a zoning ordinance; however, the Town of Root's 2012 Town Code includes Land Subdivision Regulations (Chapter 37). According to Section 37-2-2, a subdivision does not include a two-lot division of land with one lot retained by the Seller. Therefore, given that the original parcels will remain with the landowners and only one new parcel is being created, Chapter 37 is not applicable to the POI Switchyard, and there are no local ordinances, laws, resolutions, regulations, standards, and other requirements applicable to the division of the POI parcels.

### **Town of Root Flood Plan Management Regulations (Local Law 1 of 2018)**

The Town of Root has adopted Flood Plan Management Regulations, which establish areas of special flood hazards for the Town of Root. No above-ground Facility components are proposed in the areas of special flood hazard within the Town, so this law is not applicable to the Facility.

## **Montgomery County**

Montgomery County Local Law 3 of 2021 (Scenic Byway Law) designates certain County roadways as scenic byways. The local law pertains specifically to the standards for scenic byways under County jurisdiction (Section 1-5 of County Law), including guidelines for the maintenance of these byways by the County (Section 6 of County Law). The guidelines direct the County on how to maintain roadside views, vegetation and road grades. It is important to note that while the County has established these guidelines it does not possess zoning authority. Consequently, the County's byway law cannot impose zoning requirements on the Facility. Nevertheless, the visual impacts on the County's scenic byways have been considered and assessed, as detailed in Exhibit 8. In addition, the Applicant will work with the County to enter into a Road Use Agreement (RUA) for use of County roads and will work with the County with respect to any applicable provisions of the byway law which may pertain to work in the County roadways and/or right of way.

To the extent that the County Scenic Byway Law may be viewed as prohibiting the Facility from changing roadside views, such prohibition would not be within the County's jurisdiction.

The Applicant has not identified any other local laws in Montgomery County applicable to the Facility.

### **24(b) Substantive Requirements Applicable to Utility Interconnections in Public Rights-of-Way**

The Applicant has conducted a review of the Town of Canajoharie and the Town of Root's local laws and came to the conclusion that there are no substantive requirements in the local laws or regulations applicable to the Facility in relation to the interconnection or use of water, sewer, or telecommunication lines in public rights-of-way in the Towns of Canajoharie and Root. The Facility does not require potable water, wastewater interconnections, stormwater drains, or offsite communication lines.

### **24(c) Local Substantive Requirements Applicant Requests ORES Not Apply**

The Article VIII regulations expressly preempt local procedural requirements, such as permits and approvals, which would otherwise be required by the host municipalities for construction and operation of the Facility (i.e., special use permit). However, local substantive requirements (i.e.,



setbacks, height limits, lot coverage requirements) will be applied to the Facility unless ORES finds them to be unreasonably burdensome relative to requirements under Article VIII. The Applicant is requesting waivers of certain the sections of local laws identified in Appendix 24-6. For each local substantive requirement identified by the Applicant below a statement of justification is provided as required by 16 New York Codes, Rules and Regulations (NYCRR) Section 1100-2.25(c) (Appendix 24-6).

**24(d) Summary Table of Substantive Local Requirements**

Table 24-1 provides a list of all applicable substantive requirements to the Facility and a description of how the Applicant plans to adhere to those requirements. Note, the Applicant has also included procedural provisions which are supplanted by Article VIII, in Table 24-1 and has noted procedural provisions or provisions that are otherwise inapplicable to the Facility by shading them grey. Substantive provisions which the Applicant is seeking a waiver have been shaded blue, and substantive provisions which the Applicant complies with have been shaded green.

Town of Canajoharie:

- Local Law # 2 of 2024, Solar Energy Law

Town of Root:

- Local Law # 1 of 2024, Solar Energy Systems Law

**Table 24-1. List of Applicable Substantive Requirements to the Facility and Plans to Adhere to the Requirements**

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
§5(A) A Building permit shall be required for installation of all Solar Energy Systems. The Town herewith adopts the New York State Unified Solar Permit, as it pertains to solar energy systems with capacity of 25 kW or less, or as it may be modified, and its use is required for eligible solar energy systems. Eligible solar energy systems. Eligible solar systems are specified on the adopted permit documents. For any permit applications for projects of capacity 25 kW or less, completion of the New	This requirement is procedural and therefore supplanted by Article VIII.

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
York State Unified Solar Permit Application is required.	
§5(B) Prior to the issuance of the building permit or final approval of some Tier II and all Tier III or greater project applications by the Planning Board, construction and/or site plan documents must be signed and stamped by a NYS Licensed Professional Engineer or NYS Registered Architect and undergo legal review. Tier I projects do not require legal and engineering review; Not all Tier II projects require legal and engineering review. (Refer to specific requirements for each Tier).	The requirement to receive signed and stamped documents is procedural and therefore supplanted by Article VIII. However, as required by Article VIII, the Applicant has submitted design drawings stamped by a New York licensed engineer
§5(C) The Planning Board and/or Zoning Board of Appeals, to the extent reasonably practicable may condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.	This requirement is procedural and therefore supplanted by Article VIII.
§5(D) Issuance of permits and approvals by the Town and/or Planning Board shall include review pursuant to the State Environmental Quality Review Act and Regulations.	This requirement is procedural and therefore supplanted by Article VIII.
§5(E) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Uniform Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town’s code and requirements.	The Facility has been designed to comply with the applicable codes, regulations, and standards of the Uniform Code and Energy Code.
§5(F) For Solar Energy Systems subject to site plan and/or special permit review, the Town may impose, and may update by resolution of the Town of Canajoharie Town Board, as appropriate, a schedule of fees to recover expenses associated with engineering, environmental, or legal services determined to be reasonably necessary in the processing of an application under this law, and in order to	The Town’s ability to collect an application fee and to change the schedule of fees is procedural and therefore supplanted by Article VIII. Note that intervenor funding is available to local municipalities as part of the Article VIII process.

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>ensure compliance. These fees shall be in addition to any application fees as may be required for site plan, special use permit, and/or subdivision review and approval. Applicant shall bear the cost of all fees.</p>	
<p>§5(G) Review and written concurrence from the responding fire district shall be provided. At the discretion of the Planning Board, an emergency response plan and/or first responder training may be required.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII. As part of the Article VIII process the Applicant has prepared emergency response plans and will continue coordinate with local emergency responders.</p>
<p>§5(H) Final approval or issuance of Special Use and/or Building Permits is subject to the discretion of the Town Board and may be subject to any appropriate and reasonable conditions imposed, to be determined upon circumstances of the application process.</p>	<p>The Approval process by the Town is procedural and therefore supplanted by Article VIII.</p>
<p>§8(B) All Tier 3 Solar Collector Systems are permitted through the issuance of a special use permit and site plan approval within the Agricultural/Rural Residential District, and subject to site plan and special use permit application requirements set forth in this Section and Article VII and Article IX of the Town of Canajoharie Zoning Law</p>	<p>The Facility has been designed to comply with this requirement, all Facility components are in the Agricultural/Rural Residential District.</p>
<p>§8(B)(1)(a) Reviewed by the Planning Board for completeness in accordance with the Town of Canajoharie Zoning Law, including Art VII Special Use Permits and Art. IX Site Plan Review.</p>	<p>The Special Use Permit and Site Plan Review process is supplanted by Article VIII.</p>
<p>§8(B)(1)(b) Subject to a public hearing as required by the Town of Canajoharie Zoning Law. The public hearing shall conform to the requirements set forth in Section B(4) of this Section.</p>	<p>The local requirement for a public hearing is procedural and therefore supplanted by Article VIII. The Applicant has held public meetings as part of their public outreach program. Additional information may be found in Section 2: Overview and Public Involvement.</p>
<p>§8(B)(2) Application &amp; Site Plan Review Requirements. Applications for Tier 3 Solar Collector Systems, including materials for site plan and special permit review, shall include the following:</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 2, and may also be found at <a href="https://cordeliopower.com/project/flat_creek/">https://cordeliopower.com/project/flat_creek/</a>.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(B)(2)(a) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Tier 3 Solar Collector System. Such information of the final system installer shall be submitted prior to the issuance of building permit.</p>	
<p>§8(B)(2)(b) Name, address, contact information, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the Tier 3 Solar Collector System.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 2, and may also be found at <a href="https://cordeliopower.com/project/flat_creek/">https://cordeliopower.com/project/flat_creek/</a>.</p>
<p>§8(B)(2)(c) Certification from the utility that the interconnection is viable.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII.</p>
<p>§8(B)(2)(d) Nameplate Capacity of the Tier 3 Solar Collector System (as expressed in MW)</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. The Facility as proposed is 300 MW.</p>
<p>§8(B)(2)(e)(i) Zoning district designation for the parcel(s) of land comprising the Facility Area and other portions of the project site.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 3.</p>
<p>§8(B)(2)(e)(ii) Any Overlay Districts, including the Critical Environmental and Scenic Resources Overlay Districts applicable to the project site.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. To date the Applicant is not aware of the Town creating these districts. The Zoning Law of the Town of Canajoharie requires that the Town adopt a map entitled “Critical Environmental Overlay District” and “Scenic Resource Overlay District” before the overlay is created. The Applicant has been unable to locate any maps with these districts and the Town has not responded to requests for information. In addition, there are no standards associated with these districts within the Town’s Zoning Law.</p>
<p>§8(B)(2)(e)(iii) Adjacent land uses on contiguous parcels within a 1,000’ radius of the site boundary, or as otherwise required by the Planning Board.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 5: Design Drawings.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
§8(B)(2)(e)(iv) Proposed changes to the landscape of the site, including site grading, vegetation clearing and planting, the removal of any large trees.	The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 5: Design Drawings.
§8(B)(2)(e)(v) Erosion and sediment control and storm water management plans prepared to NYS Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.	The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 13: Water Resources and Aquatic Ecology.
§8(B)(2)(e)(vi) Identification of the groundwater conditions in the area and all public and private wells within 1,000 feet of the site.	The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 13: Water Resources and Aquatic Ecology.
§8(B)(2)(e)(vii) Trails located on the site that are part of the Statewide Snowmobile Trail System.	The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 5: Design Drawings.
§8(B)(2)(e)(viii) Historic sites listed on the National and/or State Register of Historic Places, or those Eligible for listing, within the site and those within a 1-air mile radius of the site.	The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 9: Cultural Resources.
§8(B)(2)(f) Site Specific Soil Survey: This document shall field identify the borders of existing site soils in accordance with NRCS standards and shall be performed by an accredited Soil Scientist whose name shall be noted on the drawing. Existing published soil maps and data shall only be used as guideline information by the Soil Scientist. In addition to field identifying site soils the Soil Scientist shall document the depth of the plow layer on the site. This document shall also include mapping of Active Agricultural Lands and Productive Farmland on the parcel(s) comprising the Facility Area.	The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 10: Geology, Seismology, and Soils.
§8(B)(2)(g) A three-line electrical diagram detailing the entire Tier 3 Solar Collector System layout, including the number of Solar	The requirement to submit this information is procedural and therefore supplanted by Article

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>Panels in each ground-mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electrical Code compliant disconnects and over current devices. The diagram should describe the location and layout of all Energy Storage Device components, if applicable, and should include applicable setback and other bulk and area standards.</p>	<p>VIII. However, the Applicant has submitted this information in Exhibit 5: Design Drawings.</p>
<p>§8(B)(2)(h) A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, battery energy storage systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 6: Public Health, Safety and Security.</p>
<p>§8(B)(2)(i) A Property Operation Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. In accordance with 1100-10.2 the Applicant will submit a Quality Assurance and Control Plan, Construction Operations Plan, Facility Maintenance and Management Plan, and a Vegetation Management Plan. These will all come post-Application but our compliance and adherence to vegetation management is described in Exhibit 11 (<i>Terrestrial Ecology</i>).</p>
<p>§8(B)(2)(j)(i) The time required to decommission and remove the Solar Energy System and any ancillary structures.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(j)(ii) The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 23: Site Restoration and Decommissioning.</p>



Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(B)(2)(j)(iii) The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation and restoration.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(j)(iv) Removal of all above-ground solar energy equipment, structures and restoration of areas previously used for agricultural production, according to recommendations by the owner, the Soil and Water Conservation District, the Town Engineer, the NYSDAM, and/or other qualified entity; removal of concrete piers, footers, or other supports to a depth of 48 inches below the soil surface; and removal of access roads, unless otherwise specified by the owner and subject to approval during site plan review.</p>	<p>The Facility has been designed to comply with this requirement. Additional information may be found in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(j)(v) For solar energy systems constructed on Prime and other Important Farmland and/or Productive Farmland, the restoration of such farmland pursuant to the decommissioning guidelines of the NYSDAM Solar Energy Project Guidance.</p>	<p>The Facility has been designed to comply with this provision. Additional information may be found in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(j)(vi) Restoration of the surface grade and soil after equipment removal and stabilization or revegetation of the site as necessary to minimize erosion.</p>	<p>The Facility has been designed to comply with this provision. Additional information may be found in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(j)(vii) Disconnect of the solar energy system from the utility power grid.</p>	<p>The Facility has been designed to comply with this provision. Additional information may be found in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(j)(viii) The plan to dispose or recycle all waste generated from the decommissioning of the solar energy system pursuant to local, state, and federal solid waste regulations.</p>	<p>The Facility has been designed to comply with this provision. Additional information may be found in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(j)(ix)(a) The deposit, executions, or filing with the Town Clerk of cash or other form of financial security acceptable to be held in escrow by the Town, subject to the approval of the Town attorney and/or Engineer. The</p>	<p>The approval of the Town attorney and/or Engineer is supplanted by Article VIII. The Applicant will provide decommissioning security in accordance with the requirements of Article VIII and any Final Permit issued.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>estimated cost of implementing the decommissioning plan will be certified by a licensed professional engineer and reviewed by the Town Engineer and 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 removal and restorations of the site subsequent to removal.</p>	<p>Additional information may be found in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(j)(ix)(b) The amount of the bond or security shall be 150% of the cost of removal and site restoration for the Tier 3 Solar Collector System and shall be revisited every 3 years and updated as needed to reflect any changes (due to inflation or other cost changes). Salvage value of the Solar Energy System shall not count toward the decommissioning security.</p>	<p>The Applicant is seeking a waiver of this provision. See Appendix 24-6.</p>
<p>§8(B)(2)(j)(ix)(c) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the cash deposit, bond, or security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The financial security shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed.</p>	<p>The Applicant will provide decommissioning security in accordance with the requirements of Article VIII and any Final Permit issued. Additional information may be found in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§8(B)(2)(k) Ancillary materials. Other relevant studies, reports, certifications, and approvals as may be reasonably requested by the Town of Canajoharie to ensure compliance with this local law, the Town of Canajoharie Zoning Law, and SEQRA.</p>	<p>The requirement to submit this information is procedural and therefore supplanted by Article VIII.</p>
<p>§8(B)(3) Reimbursable Costs. The Planning Board may, under Art. IX Section F and Section L of the Town of Canajoharie Zoning Law, obtain necessary consulting services, the costs of which are to be paid by the Applicant, in accordance with Town of Canajoharie requirements.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. Intervenor funding is available to local municipalities through the Article VIII process.</p>



Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(B)(4) Public hearing. In addition to the requirements set forth in the Town of Canajoharie Zoning Law Art. IX Section G, notice of the public hearing and data regarding the substance of the application shall be provided to the owners of all property within two hundred (200) feet of the land involved in such application. The Town will provide a copy of the required property owner notice language to the Applicant. The mailing shall not contain any other materials. Notice shall be provided by either certified mail, return receipt required, at least seven (7) calendar days prior to the hearing, with compliance with this notification procedure certified to by the Applicant and certified mailing receipts must be provided to the Town Clerk and Planning Board prior to any permissions being granted.</p>	<p>The public hearing requirements in this provision are procedural and therefore supplanted by Article VIII. However, the Applicant has submitted this information as a part of Exhibit 2: Overview and Public Involvement.</p>
<p>§8(B)(5)(a) Underground Requirements. All utility lines located outside of the Facility Area shall be placed underground to the maximum extent feasible and as permitted by the serving utility, with the exception of any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§8(B)(5)(b) Vehicular Paths. Vehicular paths within the Facility Area shall be designed in compliance with Uniform Code requirements and NYSDAM guidance to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§8(B)(5)(c)(i) No signage or graphic content shall be displayed on the Solar Energy Systems except the manufacturer’s name, equipment specification information, safety information, and 24-hour emergency contact information. Said information shall be depicted within an area acceptable to the Planning Board.</p>	<p>The Facility has been designed to comply with this requirement.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(B)(5)(c)(ii) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.</p>	<p>The Facility will comply with NEC standards, however note, this provision is inconsistent with the NEC because the reflective requirements in the NEC were removed in the 2020 edition. The Applicant respectfully directs ORES to this website for additional information related to the reflective requirements in the NEC <a href="https://solarbuildermag.com/featured/review-of-nec-2020-code-revisions-and-label-changes-for-solar-installers/">https://solarbuildermag.com/featured/review-of-nec-2020-code-revisions-and-label-changes-for-solar-installers/</a></p>
<p>§8(B)(5)(d) Glare. Solar Panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways. All Solar Panels shall have anti-reflective coating(s). The applicant shall demonstrate that any glare produced does not have significant adverse impact on neighboring properties or roadways. The Planning Board may require submission of a Glare Study.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§8(5)(e) Lighting. Lighting of the Solar Energy Equipment/Systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties (dark sky compliant).</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§8(5)(f) Multiple lots. At the discretion of the Planning Board, where a Tier 3 Solar Collector System’s Facility Area comprises multiple lots (regardless of ownership by an individual or multiple participating landowners), the combined lots may be treated as a single lot for the purposes of applying specific standards and requirements, including but not limited to lot size and setback requirements.</p>	<p>The Facility has been designed to comply with this requirement. The analysis and waivers requested in this Exhibit and throughout the Application treat participating parcels as combined lots.</p>
<p>§8(5)(g) Lot size. The minimum lot size of the property on which the Tier 3 Solar Collector System is placed shall be 20 acres.</p>	<p>The Facility has been designed to comply with this requirement. The Applicant directs ORES to Exhibit 4: Real Property for additional information.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(5)(h) Setbacks. Tier 3 Solar Collector Systems shall maintain the required setback of five hundred feet (500') from a neighboring property boundary line. Exceptions are at the discretion of the Town Planning Board upon consideration of the entire application. Fencing, collection lines, access roads and landscaping may occur within the setback.</p>	<p>The Applicant is seeking a waiver of this provision. See Appendix 24-6.</p>
<p>§8(5)(i) Height. The height of the Solar Energy Equipment/System shall not exceed 17 feet. Height is measured from the lowest adjacent grade to the highest point of the structure, including any attachments (such as lightning-protection device).</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§8(5)(i)(i) This height requirement can be modified by the Planning Board if the panels are being raised to accommodate continued or new agricultural activities.</p>	<p>This provision is procedural and is therefore supplanted by Article VIII.</p>
<p>§8(5)(j) Noise levels from the Solar Energy Equipment/System must be shown to not have adverse or unreasonable noise impacts on surrounding homes or other sensitive receptors. The 1-hour average noise generated from the Solar Energy Equipment/System shall not exceed a noise level, as measured at the outside wall of any non-participating residence or occupied community building, based on current (45dBA) or future recommendations from the World Health Organization. Equipment and component manufacturers' noise ratings may be submitted to demonstrate compliance. The Town may require Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the Solar Energy Equipment/System in order to demonstrate compliance. Existing background noise levels shall be taken before there is any modeling of projected noise levels.</p>	<p>The Applicant is seeking a waiver of this provision with respect to future recommendations of the World Health Organization. See Section (C) above. Otherwise, the Facility has been designed to comply with this requirement.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(5)(k) Lot coverage. The surface area of Tier 3 Solar Collector Systems shall not exceed 80% of the total parcel area.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§8(5)(l) Fencing Requirements. All mechanical equipment, including any structure for Energy Storage Device components, shall be enclosed by fencing of a minimum height of 7-feet, as required by NEC, with a self-locking gate to prevent unauthorized access. This height requirement shall supersede other local requirements which may be in conflict. The use of woven wire fencing or other fencing types that permit wildlife passage shall be required unless otherwise prohibited by local, state, and/or federal standards.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§8(5)(m)(i) Conduct a visual assessment of the visual impacts of the Solar Energy Equipment/System on public roadways, historic resources, scenic resources, important corridors, adjacent properties, and other sensitive receptors as may be identified pursuant to the application requirements and overlays, maps, and/or as identified by the Planning Board. The visual assessment shall generally conform to the most current NYSDEC policy on Assessing and Mitigating Visual and Aesthetic Impacts (“Visual Policy”). At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant. The Planning Board may waive or modify the requirements set forth in this section for Solar Energy Equipment/System with a Facility Area smaller than 10 acres.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. For more information on visual assessment requirements for the Facility see Exhibit 8.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(5)(m)(ii) Submit a screening &amp; landscaping plan, prepared by a licensed landscape architect, to show adequate measures to screen through landscaping, grading, or other means so that views of Solar Panels and Solar Energy Equipment/Systems shall be minimized as reasonably practical from public roadways and adjacent properties to the maximum extent feasible.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. The Facility has been designed to minimize visual impacts to roadways and adjacent properties. See Exhibit 8: Visual Impacts for additional information.</p>
<p>§8(5)(m)(iii) The screening &amp; landscaping plan should demonstrate that the landscaped buffer will provide a year-round screening so that, to the maximum extent practicable, the Solar Energy Equipment/System is not visible from roadways and adjacent nonparticipating properties. The plan shall specify the locations, elevations, height, plant species and/or materials that will comprise the landscaping, berms, grading, structures, architectural features, or other screening methods that will harmonize with character of the property and surrounding area, mitigate adverse aesthetic effects, and screen the system from important views or vistas. The plan shall use native and non-invasive plant species to promote habitat for native wildlife species and foraging habitat beneficial to game birds, songbirds, and pollinators. Evergreen tree plantings may be required to screen portions of the site from residential properties, roadways, and other important natural resources, viewsheds, and/or receptors, as may be identified by the Planning Board. If the buffer utilizes vegetative planting, the plantings shall consist of noninvasive evergreen trees or bushes, deer and weather resistant plant species, or other noninvasive species as otherwise recommended by the landscape architect, planted with sufficient spacing, dependent on the type of species of plantings used, to</p>	<p>The Applicant is seeking a waiver of this provision. See Appendix 24-6.</p>

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<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>facilitate for healthy tree growth and at least four feet tall at time of planting, or as otherwise required by the Board or as may be recommended as part of the visual impact assessment. The buffer shall obtain a height of at least 10 feet within five growing seasons. Invasive species shall not be planted as part of the landscape buffer.</p>	
<p>§8(5)(m)(iv) The Planning Board may elect to waive certain screening and landscaping requirements in select locations based on an applicant’s demonstration of non-impact or impact mitigation on adjacent parcels.</p>	<p>The Applicant is seeking a waiver of this provision. See Appendix 24-6.</p>
<p>§8(5)(m)(v) The vegetation management plan shall ensure that any landscaping and trees that die off will be replaced by the following growing season with the approved plantings from the screening and landscape plan.</p>	<p>The Facility has been designed to comply with this requirement. See Exhibit 8: Visual Impacts for additional information.</p>
<p>§8(5)(m)(vi) The Planning Board may require a Landscaping Maintenance Financial Security in the form of cash bond or other form acceptable to the Town to ensure the proper maintenance of the landscaping surrounding the solar site.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§8(5)(n) A Tier 3 Solar Collector System proposed within 1 mile of an existing or proposed Tier 3 Solar Collector System shall be reviewed with the additional consideration of the cumulative visual impacts and impacts to the aesthetic resources of the Town.</p>	<p>This provision does not contain any substantive provisions. See Exhibit 8: Visual Impacts for additional information including cumulative visual impacts as applicable.</p>
<p>§8(5)(o)(i) Tree-cutting. Existing on-site vegetation shall be preserved to the maximum extent practicable. The removal of existing non-invasive trees greater than 6 inches in diameter shall be minimized to the greatest extent possible. Clear-cutting of all native and non-invasive trees in a single contiguous area exceeding 20,000 square feet shall be strongly discouraged, but may be left to the discretion of the Town Planning Board to consider along with best practices guidance from NYS</p>	<p>The Applicant is seeking a waiver of this provision. See Appendix 24-6.</p>

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<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>Department of Agriculture and Markets for timber production, agricultural and farm management practices. If, in the discretion of the Planning Board, clear-cutting in excess of 20,000 square feet is most protective of farmland resources, or will advance the state purposes of this local law, the Board may consider clearing in excess of the stated limits.</p>	
<p>§8(5)(o)(ii) Tier 3 Solar Collector System owners and/or operators shall develop, implement, and maintain native vegetation to the extent practicable, pursuant to a vegetation management plan, by providing Native Perennial Vegetation and foraging habitat beneficial to game birds, songbirds, and Pollinators.</p>	<p>The Facility has been designed to comply with this requirement. See Exhibit 8: Visual Impacts for additional information.</p>
<p>§8(5)(o)(ii)(a) To the extent practicable, when establishing perennial vegetation and beneficial foraging habitat, the Owner shall use native plant species and seed mixes and seed all appropriate areas within the Facility Area. Any project which is designed to incorporate agricultural or farm-related activities or uses within the Facility Area may be excluded from this requirement based on the amount of space actually occupied by the agricultural use(s). This exclusion will only be allowed based on the Planning Board’s determination that these lands are being used for actual agricultural uses.</p>	<p>The Facility has been designed to comply with this requirement. See Exhibit 8: Visual Impacts for additional information.</p>
<p>§8(5)(o)(ii)(b) Use of pesticides (including herbicides) for long-term operation and site maintenance shall be limited or avoided entirely, and the rationale for any proposed pesticide use shall be thoroughly documented by the Operator, subject to Planning Board approval.</p>	<p>The Facility has been designed to comply with this requirement.</p>



Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(5)(o)(iii) Slopes. Development on Steep Slopes, and Very Steep Slopes shall be avoided to the maximum extent practical. Development on Excessively Steep Slopes is prohibited.</p>	<p>The Facility has been designed to comply with this requirement. See Exhibit 10 for additional information.</p>
<p>§8(5)(o)(iv) Compliance with applicable overlay district standards, including the Critical Environmental and Scenic Resources Overlay Districts.</p>	<p>To date the Applicant is not aware of the Town creating these districts. The Zoning Law of the Town of Canajoharie requires that the Town adopt a map entitled “Critical Environmental Overlay District” and “Scenic Resource Overlay District” before the overlay is created. The Applicant has been unable to locate any maps with these districts and the Town has not responded to requests for information. In addition, there are no standards associated with these districts within the Town’s Zoning Law.</p>
<p>§8(5)(p) Agricultural Resources. Tier 3 Solar Collector Systems for which the Facility Area includes lands consisting of Prime and other Important Farmlands, or is proposed on a site with Active Agricultural Land, shall adhere to the following requirements:</p> <p>§8(5)(p)(i) When proposed on Active Agricultural Land located within an Agricultural District designated under Section 303 of the NYS Agricultural and Markets Law, a Tier 3 Collector System components, equipment, and associated impervious surfaces shall occupy no more than 20% of any Prime and other Important Farmlands, but in no case shall it exceed 15 acres of such Prime and other Important Farmlands. Tier 3 Solar Collector Systems shall, to the maximum extent practical, avoid impacts to Active Agricultural Land and Productive Agricultural Land.</p>	<p>The Applicant is seeking a waiver of this provision. See Appendix 24-6.</p>



Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(5)(p)(ii) To the maximum extent practicable, Tier 3 Solar Collector Systems located on Prime and other Important Farmlands shall be constructed, monitored, and decommissioned in accordance with the NYSDAM’s “Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands.”</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§8(5)(q) Ownership Changes. If the owner or operator of the Solar Energy System changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the decommissioning plan. A new owner or operator of the Solar Energy System shall notify the zoning enforcement officer of such change in ownership or operator within 30 days of the ownership change. Failure to provide this notice will result in forfeiture of all or a portion of the certificate of occupancy, special permit, and/or deposit/decommissioning fee.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§8(5)(r) After completion of a Tier 3 Solar Collector System, the owner or operator shall provide documentation, certified to the Town, from a professional engineer registered in New York State that the project complies with applicable codes and industry practices, and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§8(5)(s) Annual Report. The Tier 3 Solar Collector System owner shall, on a yearly basis, provide the Code Enforcement Officer a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>period. The report shall also identify any change in ownership of the Tier 3 Solar Collector System and/or the land upon which the system is located and shall identify any change in the party responsible for decommissioning and removal of the system upon its abandonment. The annual report shall be submitted no later than 45 days after the end of the calendar year. Every third year, to coincide with the filing of evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the Tier 3 Solar Collector System. The Code Enforcement Officer may require an adjustment in the amount of the surety to reflect any changes in the estimated cost of decommissioning and removal. Failure to submit a report as required herein shall be considered a violation subject to the penalties of the Town of Canajoharie Zoning Law.</p>	
<p>§8(5)(t)(i) The decommissioning plan shall run to the benefit of the Town of Canajoharie and be executed by the operator as well as the owners and such signatures shall be notarized in a format that allows the plan to be recorded at the Office of the Montgomery County Clerk. This document shall be recorded as an irrevocable deed restriction indexed against the property upon which the solar energy system is to be constructed.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§8(5)(t)(ii) Initial and annual site-specific training shall be provided for the Code Enforcement Officer, fire department, emergency response, Montgomery County emergency management system, and police department, with expenses for such training covered by the operator.</p>	<p>The Facility will comply with this requirement. The Applicant will provide annual training to local emergency responders.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(5)(t)(iii) The operator 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.</p>	<p>The Facility will comply with this requirement.</p>
<p>§8(5)(t)(iv) A certificate of Comprehensive General Liability Coverage Insurance Policy with minimums of at least \$300,000.00 to \$500,000.00, naming the property owner, or to the satisfaction of the reviewing Board.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§8(6)(a)(i) The Planning Board’s designated engineer, or other responsible party as may otherwise be determined by the Planning Board, shall be responsible for the overall inspection of site improvements, including coordination with the Code Enforcement Office and other officials and agencies, as appropriate.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§8(6)(a)(ii) The Planning Board may impose, as a condition of site plan approval, that the Developer and/or Owner reimburse the Town for inspection of improvements services provided in accordance with this Section.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§8(6)(b)(i) As a condition to the approval the Developer and/or Owner may be required to post financial security to insure the completion and the proper performance of the improvements with the Town. The Planning Board shall determine the adequacy of the amount sufficient to cover the cost of the required improvements. The Planning Board may consult with its designated engineer as part of determining adequacy and sufficiency of the financial security.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. However, the Applicant directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information related to financial security.</p>
<p>§8(6)(b)(ii) Such financial security shall be in a form acceptable to the Town and approved by the Town Attorney as to form, sufficiency, surety, and manner of execution.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. However, the Applicant directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information related to the financial security.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§8(6)(b)(iii) Such performance bonds shall run for a term to be fixed by the Town, but in no case for a longer term than three (3) years.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. However, the Applicant directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information related to the financial security.</p>
<p>§8(6)(b)(iv) If the Planning Board shall decide at any time during the term of the performance bond that certain improvements are no longer warranted, or that some improvements have been installed, or that additional improvements are necessary, the amount of the financial security may be reduced or increased by an appropriate amount to cover the estimated cost of the incomplete improvements or the additional improvements required by the Board.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. However, the Applicant directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information related to the financial security.</p>
<p>§8(6)(b)(v) In the event that any improvements have not been installed as required by the Planning Board within the term of such financial security, the Planning Board may thereupon declare the holder of the financial security to be in default and collect the sum remaining payable thereunder, upon receipt of the proceeds thereof, the Town may install the improvements covered by such financial security which are commensurate with the extent of the development of the subject site plan that has taken place, but not exceeding in cost the amount of such proceeds.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. However, the Applicant directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information related to the financial security.</p>
<p>§8(6)(b)(vi) If the Planning Board, or an appropriate Town officer appointed by it, shall find upon inspection that any of the required improvements have not been constructed in accordance with the site plan and conditions approved and specified by the Planning Board, then the Developer and/or Owner and the bonding company (if any) shall be severally and jointly liable for the costs of completing said improvements as originally specified by the Planning Board.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. However, the Applicant directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information related to the financial security.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§9 All Solar Energy Systems which are regulated under Section 94-C [Executive Law Chapter 18, Article 6, Section 94-C], shall be subject to any and all applicable provisions of this law and additional Tier 3 provisions. The Town intends that the intent, purpose, and provisions of this Local Law be reviewed by any siting and/or regulating Boards, as the Town is desirous of maintaining its unique character and quality as a historic, agricultural community greatly reliant upon tourism.</p>	<p>This provision is procedural and therefore supplanted by Article VIII. The Applicant has highlighted throughout this Exhibit what provisions that the Facility is in compliance and which provisions the Applicant is seeking a waiver for.</p>
<p>§11(A) Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.</p>	<p>The Facility has been designed to comply with this provision.</p>
<p>§11(B) Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Solar Energy System is located in an ambulance district, the local ambulance corps.</p>	<p>The Facility has been designed to comply with this provision.</p>
<p>§11(C) If Energy Storage Devices are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town, and any applicable federal, state, or county laws or regulations.</p>	<p>Battery storage is not proposed with this Facility, making this provision in applicable.</p>
<p>§11(D) Where deemed necessary by the Planning Board, the Applicant shall ensure emergency access to the Facility Area for local first responders by installing an emergency lock box or similar device, in a location subject to approval by the Code Enforcement Officer and responding fire department(s).</p>	<p>The Facility has been designed to comply with this provision.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>§11(E) First Responder Training; In the discretion of the responding fire district, prior to issuance of a building permit, funding sufficient to provide training from an industry-recognized trainer or firm specializing in first response to Solar Energy and Batter Energy Storage System emergencies and other events requiring response by fire district, police, and/or other first responders, as may be determined by the Town, shall be provided in a form acceptable to the Town. The Town may, from time to time, require training of new personnel, and funding, or other mechanism to cause such training to be provided, as determined by the Town, which shall be provided by the Facility Owner and/or Operator upon request by the responding fire district. Should any additional equipment or training be required at any time during the installation, commission, operation, or decommission phases, all related costs shall be borne by the Facility Owner/Operator.</p>	<p>The Facility does not include battery storage, but the Applicant will cooperate with the local emergency response as needed and has been in regular conversation with them throughout the Application process.</p>
<p>§12(A) The Special Use Permit and site plan approval for a Tier 3 Solar Collector System shall be valid for a period of 36 months, provided that construction is commenced within that timeframe. In the event construction is not commenced in accordance with the final site plan – as may have been amended and approved – as required by the Planning Board, within 36 months, the applicant may request to extend the time to commence construction for 12 months. Approval of a request to extend the time to complete commence construction shall not be unreasonably withheld by the Town. If having, commenced construction, the owner and/or operator fails to complete construction within 36 months after having commenced construction, the approvals shall expire, and a new application begun and any fees resubmitted prior to any construction</p>	<p>This provision relates to the local approval process and local determinations. Therefore, this provision is supplanted by Article VIII and is inapplicable to the Facility.</p>

Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>recommencing. If the owner or operator fails to perform, the Town may notify the owner or operator to implement the decommissioning plan. In such instance, the decommissioning plan must be completed within 150 days of notification by the Town.</p>	
<p>§12(B) Cessation of electricity being generated for a period of twelve months constitutes abandonment of the Tier 3 Solar Collector System project, unless an agreement was previously reached between the Town and the owner/operator and/or construction company in question. Upon cessation of electricity generation of a Tier 3 Solar Collector System on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of Tier 3 Solar Collector System to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.</p>	<p>The Facility has been designed to comply with this provision to the extent that the timeline is a substantive provision. The Applicant directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information.</p>
<p>§12(C) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the Tier 3 Solar Collector System and restoration of the site in accordance with the decommissioning plan. Notwithstanding the foregoing, the Town shall first attempt to secure payment for such costs and expenses from the security made with the Town as set forth herein. In the event the costs incurred by the Town to implement the decommissioning plan are not obtained from the security, the Town shall next attempt to secure payment for such costs and expenses from the operator; however, in the event the Town is not made whole following reasonable attempts to collect such costs and expenses from the operator of the installation, the Town reserves all rights to pursue payment for such costs and expenses</p>	<p>The Facility has been designed to comply with this provision and directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information.</p>



Local Substantive Law	Compliance
<b>Town of Canajoharie – Solar Energy Law 2024</b>	
<p>from the owner of the real property on which the installation in question is located. Such costs shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.</p>	
<p>§12(D) With the consent of the owner, the Code Enforcement Officer, along with the Town Engineer and the Planning Board, may allow the operator to implement the decommissioning plan while allowing the landscaping to remain.</p>	<p>The Facility has been designed to comply with this provision and directs ORES to Exhibit 23: Site Restoration and Decommissioning for additional information.</p>

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
<p>§5.2 Solar energy system installations for which a valid building permit has been issued, or, if no building permit is presently required, for which installation has commenced before the effective date of this law shall not be required to meet the requirements of this law.</p>	<p>The requirement to receive a building permit is procedural and supplanted by Article VIII.</p>
<p>§5.3 Modifications to an existing solar energy system that increase the system’s area by more than 5 percent (exclusive of moving any fencing) shall be subject to this law.</p>	<p>The Applicant is proposing a new Facility and is not modifying an existing solar energy system, making this provision inapplicable.</p>
<p>§5.4 All solar energy systems shall be designed, erected and installed in accordance with all applicable codes, regulations and standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Uniform Code”), the NYS Energy Conservation Code (“Energy Code”), and the Town’s code and requirements.</p>	<p>The Facility has been designed to comply with the applicable codes, regulations, and standards of the Uniform Code and Energy Code.</p>
<p>§5.5 To the extent that any other town law, rule or regulation, or parts thereof, are inconsistent with the provisions of this law, the provisions set forth in this law shall control only as they pertain to solar energy systems.</p>	<p>The Applicant acknowledges this provision and has applied this law as such.</p>



Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
§5.6 Issuance of approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act and regulations.	This provision is procedural and therefore supplanted by Article VIII.
§5.7 If Battery storage is to be used, review and written concurrence from the responding fire district shall be provided. At the discretion of the Town Board, an emergency response plan and/or first responder training may be required. Final approval or issuance of Building Permits subject to the discretion of the Town Board’s discretion and may be subject to any appropriate and reasonable conditions to be determined upon the circumstances of the application process.	The Facility does not include battery storage, making this provision inapplicable.
§5.8 Any proposed solar energy system subject to review by the New York Board on Electric Generation and Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the Executive Law, shall be subject to all substantive provisions of this law and any other applicable laws, codes, ordinances and regulations of the Town of Root, and any other applicable state or federal laws.	The Applicant is applying for a siting permit pursuant to Article VIII, that replaced 94-c, and has demonstrated where the Facility has been designed to comply with applicable laws and where the Applicant is requesting a waiver.
§7.1(A) An application for a solar permit and site plan approval by the Town of Root Planning Board and a town building permit shall be required for all utility-scale solar energy systems, complete with all applicable building permit fees. The Planning Board shall concurrently review the application for a solar permit and the site plan.	This provision is procedural and therefore supplanted by Article VIII.
§7.1(B) At the earliest possible date in the project planning process, the applicant shall contact the Town’s Uniform Code Enforcement Officer to schedule a pre-submission conference with the Planning Board. At this time, the applicant shall provide	This provision is procedural. See Exhibit 2 for additional local community outreach.

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
the opportunity for an on-site visit by Planning Board members.	
<p>§7.1(C) All applications shall be provided to any property owner within 1,000 feet of the property proposed to be used for the utility-scale solar energy system and shall be accompanied by an agricultural data statement as required by the NYS Agriculture and Markets Laws and the NYS General Municipal Law. The Town will provide a copy of the required property owner notice language to the Applicant. Proof of such mailing shall be provided by the Applicant to the Planning Board. The mailing shall not contain any other materials.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§7.1(D) All applications for utility-scale solar energy systems shall be accompanied by applicable fees as may be established by the Town Board. When the Planning Board determines that a review will require engineering, legal, environmental or planning costs, the applicant shall provide an escrow account to pay for such costs. The escrow account shall be in the amount as determined by the Planning Board. Once the Planning Board has determined the amount of escrow the account shall be established prior to any further Planning Board review.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§7.1(E) A public hearing is required in connection with application for a solar permit and site plan review for the solar project and such public hearing will cover both approvals simultaneously to give the public an opportunity to comment on all aspects of the Application. All adjacent property owners within 1,000 feet will be notified of the public hearing on the application for site plan approval by receipted mail by the Applicant no later than 10 days before the date of the public hearing and proof of such mailing shall be</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>

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provided to the Planning Board prior to the public hearing.	
<p>§7.1(F) All applications for utility-scale solar energy systems shall include the following:</p> <p>(1) A site plan prepared by a professional engineer registered in New York state including: (a) Property lines and physical dimensions of the site.</p>	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
<p>§7.1(F)(1)(b) Location, approximate dimensions and types of existing structures and uses on the site, public roads, and other properties within 1,000 feet of the boundaries of the site.</p>	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
<p>§7.1(F)(1)(c) Location and description of all solar energy system components whether on site or off site, existing vegetation and proposed clearing and grading of all sites involved. Clearing and/or grading activities are subject to review by the Planning Board and shall not commence until the issuance of the solar permit and site plan review approval, including the completion of the SEQRA process and the filing of the NOI associated with the approved SWPPP.</p>	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
<p>§7.1(F)(1)(d) Location of all above and below-ground utility lines on the site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures, including accessory facilities or equipment.</p>	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
<p>§7.1(F)(1)(e) Locations of setback distances as required by this law.</p>	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.

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§7.1(F)(1)(f) All other proposed facilities, including electrical substation, storage or maintenance units, fencing and laydown and storage areas to be used as part of construction.	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
§7.1(F)(1)(g) Erosion and sediment control and stormwater management plans prepared to NYS Department of Environmental Conservation standards, if applicable and to such standards as may be established by the Planning Board.	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
§7.1(F)(1)(h) Trails located on the site that are part of the Statewide Snowmobile Trail System.	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
§7.1(F)(1)(i) Historic sites listed on the National and/or State Register of Historic Places, or those Eligible for listing, within the site and those within a 1 mile radius of the site.	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
§7.1(F)(1)(j) All site plan application materials required by the Site Plan Review Law of the Town of Root. The Planning Board may waive any items that it deems inapplicable to a solar energy system application.	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
§7.1(F)(2) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the Utility-Scale Solar Collector System. Such information of the final system installer shall be submitted prior to the issuance of a building permit.	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.

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§7.1(F)(3) Name, address, and contact information, and signature of the project applicant, as well as the property owners, demonstration of their consent to the application and the use of the Utility-Scale Solar Collector System.	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
§7.1(F)(4) Certification from the utility that the interconnection is viable.	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
§7.1(F)(5) Nameplate Capacity of the Utility Scale Solar Collector System (as expressed in MW).	The Applicant has included the required information in the site design drawings as a part of Exhibit 5: Design Drawings. The requirement to include additional information is procedural and therefore supplanted by Article VIII.
§7.1(F)(6) A three-line electrical diagram detailing the entire Utility-Scale Solar Collector System layout, including the number of Solar Panels in each ground mount array, solar collector installation, associated components, inverters, electrical interconnection methods, and utility meter, with all National Electric Code compliant disconnects and overcurrent devices. The diagram should describe the location and layout of all Energy Storage Device components, if applicable, and should include applicable setback and other bulk and area standards.	The requirement to submit an electrical diagram is procedural and therefore supplanted by Article VIII, but the Facility will be designed to comply with the substantive portion of this provision, that all disconnects and overcurrent devices will be compliant with the National Electric Code.
§7.1(F)(7) A preliminary equipment specification sheet that documents all proposed Solar Panels, system components, mounting systems, racking system details, battery energy storage systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of a building permit.	The requirement to include a specific equipment sheet is procedural and therefore supplanted by Article VIII. The Applicant has included equipment specification in Appendix 5-3.

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§7.1(F)(8) Documentation of access to the project site(s), including location of all access roads, gates, parking areas, etc.	This requirement is procedural and therefore supplanted by Article VIII. The Applicant has included this information in Exhibit 5: Design Drawings.
§7.1(F)(9) A stormwater pollution prevention plan (SWPPP) as per NYS DEC requirements to detail stormwater runoff management and erosion control plans for the site.	The requirement to submit a SWPPP is procedural and therefore supplanted by Article VIII, however, the Applicant has submitted a SWPPP that discusses impacts and mitigation efforts as part of Exhibit 13: Water Resources and Aquatic Ecology.
§7.1(F)(10) Documentation of utility notification, including an electric service order number.	The requirement to submit this documentation is procedural and supplanted by Article VIII. The Facility will follow all necessary procedures for interconnection.
§7.1(F)(11) A Property Operation and Maintenance Plan that describes continuing site maintenance, anticipated dual-use, and property upkeep, such as mowing and trimming.	The requirement to submit a Property Operation and Maintenance Plan is procedural and therefore supplanted by Article VIII. The Applicant has discussed this information in Exhibit 11.
<p>§7.1(F)(12) A Decommissioning Plan signed by the owner and/or operator of the Solar Energy System that shall address the following:</p> <ol style="list-style-type: none"> <li>I. Cost estimate and description and form of financial surety as described in Section Nine of this law.</li> <li>II. The time required to decommission and remove the Solar Energy System and any ancillary structures.</li> <li>III. The time required to repair any damage caused to the property by the installation and removal of the Solar Energy System</li> <li>IV. The cost of decommissioning and removing the Solar Energy System, as well as all necessary site remediation or restoration.</li> <li>V. Removal of all above-ground solar energy equipment, structures, and</li> </ol>	The Applicant has drafted a Decommissioning and Site Restoration Plan as a part of Exhibit 23: Site Restoration and Decommissioning. The Applicant is seeking a waiver of the requirements of Section 9.2. See Appendix 24-6.

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<p>restoration of areas previously used for agricultural production according to recommendations by the owner, leasing agricultural provider, the Soil and Water Conservation District, the Town Engineer, the NYSDAM, and/or other qualified entity; removal of concrete piers, footers, or other support to a depth of 48 inches below the soil surface; and removal of access roads, unless otherwise specified by the owner and subject to approval during site plan review.</p> <p>VI. Restoration of the surface grade and soil after equipment removal and stabilization or revegetation of the site as necessary to minimize erosion.</p> <p>VII. The plan to dispose or recycle all waste generated from the decommissioning or revegetation of the site as necessary to minimize erosion.</p> <p>The provision of a decommissioning security, whether cash, an irrevocable letter of credit or another form acceptable to the Town, which shall adhere to requirements of Section 9.2 of this law.</p>	
<p>§7.1(F)(13) Photo simulation shall be included showing the proposed solar energy system in relation to the building/site along with elevation views and dimensions, and manufacturer’s specs and photos of the proposed solar energy system, solar collectors, and all other components.</p>	<p>The requirement to submit photo simulations is procedural and therefore supplanted by Article VIII, however, the Applicant has drafted a Visual Impact Assessment that addresses the visual impacts and mitigation of the Facility as a part of Exhibit 8: Visual Impacts.</p>



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<p>§7.1(F)(15) A sound study providing details of the proposed noise that may be generated by inverter fans, or other noise-generating equipment that may be included in the project, including actual readings of existing daytime and nighttime ambient noise at the boundary of the participating properties; the sound study shall predict the potential increase in noise from the project over the existing ambient noise levels. The 1-hour average noise generated from the Solar Energy Equipment/System shall not exceed a noise level, as measured at the outside wall of any non-participating residence or occupied community building, based on current (45dBA) or future recommendations from the World Health Organization. Noise levels must not have adverse or unreasonable impacts on surrounding homes or properties.</p>	<p>The requirement to submit a sound study that lists out nighttime ambient noise readings at each property is procedural and therefore supplanted by Article VIII. The Applicant has drafted an analysis of the noise produced by the Facility as a part of Exhibit 7: Noise and Vibration. The Applicant is requesting a waiver of this provision as it relates to the future WHO recommendations. See Appendix 24-6.</p>
<p>§7.1(F)(16)(a) A GIS viewshed analysis of the Zone of Visual Impact (ZVI); as defined as the area from which the proposed undertaking may be visible within one-half mile (0.5) around solar fields covering 4 to 40 acres in size, and one-mile around solar fields must be based upon bare-earth topography only (do not factor in vegetation). The analysis should be presented as an orthorectified aerial base map with the setback and project area indicated and ZVI highlighted.</p>	<p>The requirement to submit documentation addressing screening and visibility is procedural and therefore supplanted by Article VIII. The Applicant has submitted a Visual Impacts Assessment that addresses minimization and mitigation as a part of Exhibit 8.</p>
<p>§7.1(F)(16)(b) A visual assessment of the visual impacts of the Solar energy Equipment/System on public roadways, historic resources, scenic resources, important corridors, adjacent properties, and other sensitive receptors as may be identified pursuant to the application requirements and overlays, maps, and/or as identified by the Planning Board. The visual assessment shall generally conform to the most current NYS</p>	<p>The requirement to submit documentation addressing screening and visibility is procedural and therefore supplanted by Article VIII. The Applicant has submitted a Visual Impacts Assessment that addresses minimization and mitigation as a part of Exhibit 8.</p>



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<p>DEC policy on Assessing and Mitigating Visual and Aesthetic Impacts (“Visual Policy”). At a minimum, a line-of-sight profile analysis shall be provided. Depending upon the scope and potential significance of the visual impacts, additional impact analyses, including for example a digital viewshed report, may be required to be submitted by the applicant. The Planning Board may waive or modify the requirements set forth in this section for Solar Energy Equipment/System with a Facility Area smaller than 10 acres. Visual Mitigation and/or landscaping plan that demonstrates the visual mitigation strategy will provide year-round screening so that, to the maximum extent practicable, the Solar Energy Equipment/System is not visible from roadways and adjacent non participating properties, The plan shall specify the locations, elevations, height, plant species, and/or materials that will compromise the landscaping, berms, grading, structures, architectural features, or other screening methods that will harmonize with character of the property and surrounding area, mitigate adverse aesthetic effects, and screen the system from important views or vistas. The plan shall use native and non-invasive plant species to promote habitat for native wildlife species and foraging habitat beneficial to game birds, songbirds, and pollinators. Evergreen tree plantings may be required to screen portions of the site from residential properties, roadways, and other important natural resources, viewsheds, and/or receptors, as may be identified by the Planning Board. If the buffer utilizes vegetative planting, the plantings shall conform to the requirements of Section 7.2.D.2 of this law. The visual mitigation shall obtain a height of at</p>	

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least 10 feet within five growing seasons. Invasive species shall not be planted as part of the landscape buffer.	
§7.1(F)(16)(c) The Planning Board may elect to waive some or all screening and landscaping requirements in select locations based on the applicant’s demonstration of non-impact or impact mitigation on adjacent parcels.	This requirement is procedural and therefore supplanted by Article VIII.
§7.1(F)(16)(d) A vegetation management plan which ensures that any landscaping and trees that will die off will be replaced by the following growing season with the approved plantings from the screening and landscape plan.	The Facility has been designed to comply with this provision. See Exhibits 11: Terrestrial Ecology and 8: Visual Impacts for additional information.
§7.1(F)(16)(e) The Planning Board may require a Landscaping Maintenance Financial Security in the form of cash bond or other form acceptable to the Town to ensure proper maintenance of the landscaping surrounding the solar site.	This requirement is procedural and therefore supplanted by Article VIII.
§7.1(F)(17) The results of on-site bird and bat migration, nesting and habitat surveys. Surveys must be conducted during the appropriate seasonal windows during one year prior to submission of an application. Applicants shall use the most recent New York State Department of Environmental Conservation survey protocols for grassland birds and winter raptors. For other wildlife, applicants shall follow NYSDEC guidance on appropriate survey methods.	This requirement is procedural and therefore supplanted by Article VIII. The Applicant has conducted wildlife studies in accordance with Article VIII.
§7.1(F)(18) Documentation detailing ongoing or historical (i.e., during the preceding 5 years) use of the site as Active Agricultural Lands and production of foods, natural resources found on the site which support agriculture, and a plan for the integration of farming into the site shall be submitted as follows: A. An inventory that includes mapping, narrative, imagery, and other	The requirement to submit 5-year historical information about the use of the site as Active Agricultural Lands is procedural and therefore supplanted by Article VIII. The Applicant addressed agricultural impacts and mitigation efforts in an Agricultural Plan as a part of Exhibit 15: Agricultural Resources.

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<p>information sufficient to document all Active Agricultural Lands, Productive Farmland, viable agricultural lands, and activities relating to the production of foods on the site.</p> <p>B. A site-specific soil survey shall be conducted. The borders of existing site soils shall be field identified in accordance with NRCS standards and shall be performed by an accredited Soil Scientist whose name shall be noted on the drawing. Existing published soils maps and data shall only be used as guideline information by the Soil Scientist. In addition to field identifying site soils the Soil Scientist shall document the depth of the plow layer on the site. This document shall also include mapping of Prime and Important Farmland and mineral soil groups 1 through 4 on the parcel(s) comprising the Facility Area.</p> <p>A description of and plan for how the project will integrate into the agriculture and supporting natural resources inventoried on the parcel(s) comprising the site. The plan shall address how promoting farm viability has been incorporated into the project, including e.g., site layout, construction activities, project operations, post construction restoration of impacted Active Agricultural Lands and Productive Farmland to be returned to production, decommissioning, etc. Any proposed agricultural dual use activities shall asl be included.</p>	

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<p>§7.2(a) All utility-scale solar energy systems shall adhere to the regulations and industry standards referenced in the NYS Uniform Fire Prevention and Building Code, the NYS Energy Conservation Code and all applicable Town of Root building, plumbing, electrical, and fire codes. Utility scale solar energy systems shall comply with: conditions specified in this law. The solar panels shall be installed using the current best practices of ground mounted solar installation.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§7.2(a)(1)(a)(i) The Planning Board’s designated engineer, or another responsible party as may otherwise be determined by the Planning Board, shall be responsible for the overall inspection of site improvements, including coordination with the Code Enforcement Office and other officials and agencies, as appropriate.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII. The Applicant will enter into an agreement to arrange with the Towns for the review, approval, inspection and compliance certification for work required to comply with the Uniform Code, including arrangements to pay for the costs for any necessary consultant services.</p>
<p>§7.2(a)(1)(a)(ii) The Planning Board may impose, as a condition of site plan and solar permit approval, that the Developer and/or Owner reimburse the Town for inspection of improvement services provided in a performance guarantee.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII. The Applicant will enter into an agreement to arrange with the Towns for the review, approval, inspection and compliance certification for work required to comply with the Uniform Code, including arrangements to pay for the costs for any necessary consultant services.</p>
<p>§7.2(a)(1)(b)(i) As a condition to the approval the Developer and/or Owner may be required to post financial security to insure the completion and the proper performance of the improvements with the Town. The Planning Board shall determine the adequacy of the amount sufficient to cover the cost of required improvements. The Planning Board may consult with its designated engineer as part of determining adequacy and sufficiency of the financial security.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII.</p>

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<p>§7.2(a)(1)(b)(ii) Such financial security shall be in a form acceptable to the Town and approved by the Town Attorney as to form, sufficiency, surety, and manner of execution.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII.</p>
<p>§7.2(a)(1)(b)(iii) Such performance bonds shall run for a term to be fixed by the Town, but in no case for a longer term than three (3) years.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII.</p>
<p>§7.2(a)(1)(b)(iv) In the event that any improvements have not been installed as required by the Planning Board within the term of such financial security, the Planning Board within the term of such financial security, the Planning Board may thereupon declare the holder of the financial security to be in default and collect the sum remaining payable thereunder; upon receipt of the proceeds thereof, the Town must install the improvements covered by such financial security which are commensurate with the extent of the development of the subject site plan that has taken place, but not exceeding in the cost the amount of such proceeds.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII.</p>
<p>§7.2(a)(1)(b)(v) If the Code Enforcement Officer shall find upon inspection that any of the required improvements have not been constructed in accordance with the site plan and conditions approved and specified by the Planning Board, then the Code Enforcement Officer shall commence an enforcement action against the Applicant and the Applicant shall be responsible for the costs of completing said improvements as originally specified by the Planning Board or the decommissioning of what has been built.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII. The Applicant will enter into an agreement to arrange with the Towns for the review, approval, inspection and compliance certification for work required to comply with the Uniform Code, including arrangements to pay for the costs for any necessary consultant services.</p>

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<p>§7.2(B) All electrical and control equipment, including any battery and storage cells, shall be labeled and secured to prevent unauthorized access. Such equipment shall be enclosed with a seven-foot-high fence as required by the National Electrical Code. Fencing shall be located inside the setback described in Requirement “D” of this subsection. For large arrays, involving 1000 acres or greater, the Town Planning Board may direct that there be breaks in the fencing to allow for corridors for wildlife to move through the fenced area every 200 acres or as the Planning Board determines is beneficial to the wildlife occupying the area.</p>	<p>The Facility has been designed to comply with the substantive portions of this provision. As for the Planning Board’s determination, that portion is procedural and therefore supplanted by Article VIII.</p>
<p>§7.2(C) Warning signage shall be placed on solar equipment to the extent appropriate. Solar equipment shall not be used for displaying advertising. All signs, flags, streamers or similar items, both temporary and permanent, are prohibited on solar equipment except: (a) manufacturers’ or installer’s identification; (b) appropriate warning signs and placards; (c) signs that may be required by a federal or state agency; and (d) signs that provide a 24-hour emergency contact phone number and warn of any danger. As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.</p>	<p>This provision is inconsistent with the NEC because the reflective requirements in the NEC were removed in the 2020 edition. The Facility has been designed to comply with the NEC, which is the primary purpose of this provision. The Applicant respectfully directs ORES to this website for additional information related to the reflective requirements in the NEC  <a href="https://solarbuildermag.com/featured/review-of-nec-2020-code-revisions-and-label-changes-for-solar-installers/">https://solarbuildermag.com/featured/review-of-nec-2020-code-revisions-and-label-changes-for-solar-installers/</a></p>

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<p>§7.2(D) The solar facility, including any proposed off-site infrastructure, shall be located and screened in such a way as to avoid visual impacts as viewed from public locations, public dedicated roads and highways, residences located on contiguous parcels, or other locations identified by the Planning Board. Acceptable screening would include maintenance of existing vegetation, new native vegetative barriers or berms, landscape screen or other opaque enclosures, or any combination thereof acceptable to the Town capable of screening the site as possible. The applicant shall guarantee that all plantings that form part of the approved landscape and screening will be maintained and replaced, if necessary, during the life of the project.</p>	<p>The Applicant is requesting a waiver of this provision. See Appendix 24-6.</p>
<p>§7.2(D)(1) When the site is surrounded by existing mature trees, trees within the buffer shall not be cut and shall be maintained as a wild zone for the life of the facility. The exception to this shall be dead or diseased trees, which will be cut and removed so as to encourage healthy growth of existing trees.</p>	<p>The Applicant is requesting a waiver of this provision. See Appendix 24-6.</p>
<p>§7.2(D)(2) Trees to be included in screening shall be native and non-invasive species of evergreen, e.g. White Spruce, White Pine, Larch, red cedar, juniper, a minimum of 8’ tall and 3’ in diameter at breast height. It shall be determined and documented by the developer if at the time of planting if any species are threatened due to regional blight, disease, etc. Final decisions on appropriate plantings will be made by the Planning Board.</p>	<p>The Applicant is requesting a waiver of this provision. See Appendix 24-6.</p>

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<p>§7.2(D)(3) The solar facility shall provide for the creation of a mixed-species buffer that has an offset, double row of densely growing evergreens with the addition of some smaller trees and shrubs in front to create more of a naturalized hedgerow habitat. The purpose of the double row is to provide additional screening early while the trees are still small. While the evergreens should be the dominant tree for screening, addition of some smaller trees and shrubs are to be provided to benefit wildlife and aesthetics. Appropriate shrubs and small trees to include to create a hedgerow could be Elderberry, American Plum, Hazelnut, Witch Hazel, Blueberry, Dogwoods (Pagoda, Flowering, Silky, Gray), Sumac, Buttonbush, Pear, Apple, Lilac, Shadbush, Pussywillow, Raspberry Maple leaved viburnum, nannyberry, chokecherry.</p>	<p>The Applicant is requesting a waiver of this provision. See Appendix 24-6.</p>
<p>§7.2(D)(4) The plans shall show maximum screening of utility-scale solar. The plan shall demonstrate that screening is provided year-round, to the fullest extent possible and will not have visual adverse impacts on roadways or adjacent properties.</p>	<p>The Applicant is requesting a waiver of this provision. See Appendix 24-6.</p>
<p>§7.2(D)(5) The design, construction, operation, and maintenance of any solar energy system shall prevent the misdirection and/or reflection of solar rays onto neighboring properties, public roads, and public parks in excess of that which already exists. The Planning Board reserves the right to individually assess what they deem to be sensitive areas on any proposed solar facility site as part of their review to ensure that negative impacts of solar ray reflection will be prevented. All solar panels shall have anti-reflective coating(s) not identified as a hazardous material by the U.S. Environmental Protection Agency. The applicant shall adhere</p>	<p>The Applicant is requesting a waiver of this provision. See Appendix 24-6.</p>



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to all federal and state laws, regulations and guidelines regarding PFAS and polytetrafluoroethylene (PTFE) films. The applicant shall provide a certificate to the Town attesting to the fact that the entire solar installation is non-toxic and will not result in harmful chemicals leaching into the soils under and within the solar installation.	
§7.2(D)(6) All structures and devices used to support solar collectors shall be non-reflective and/or painted a subtle or earth tone color to aid in blending the facility into the existing environment.	The Facility has been designed to comply with this requirement.
§7.2(D)(7) Fencing installed for security or public safety shall be seven-foot (7') tall, composed of natural wood poles that mimic the rural aesthetics of the community. Barbed wire or any similar alternatives is prohibited.	The Applicant is requesting a waiver of this provision. See Appendix 24-6.
§7.2(E) Ground-mounted solar panel arrays shall not exceed 17 feet in height when oriented at maximum tilt except where Solar Energy Systems shall provide sufficient clearance for agrivoltaics, or agricultural use of the land as may be approved by the Planning Board.	The Facility has been designed to comply with this requirement
§7.2(F) A utility-scale solar energy system shall not exceed 80 percent lot coverage, as defined herein.	The Facility has been designed to comply with this requirement.
§7.2(G) Solar energy systems shall meet wetland requirements as provided in Title 6, Parts 663 and 664 of the New York Codes, Rules and Regulations and stream requirements as provided in Title 6, Part 608 of the NYCRR and shall meet all Clean Water Act requirements for placement of fill in Waters of the United States.	The Facility has been designed to comply with this requirement.

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<p>§7.2(H) Artificial lighting of solar energy systems shall be limited to lighting required for safety and operational purposes and shall be cast downward and shielded from all neighboring properties and public roads. Lighting shall be dark sky compliant.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§7.2(I) If onsite battery storage systems are utilized then, a road and parking must be provided to assure adequate emergency and service access. Maximum use of existing roads, public and private, shall be made. Any new access road will be reviewed for fire safety purposes by the Town Building Inspector and the chief of the fire company that serves the area containing the property. Site access shall be maintained at a level acceptable to the local fire department and emergency medical services, including snow removal. All solar facility access roads shall be of sufficient width to accommodate the equipment to be used at the solar installation to maintain the installation, for any farming activities proposed and for life safety, i.e. fire-fighting. All roadways associated with the solar energy system shall remain unpaved and of pervious surfaces. Vehicular Paths within the Facility area shall be designed in compliance with Uniform Code requirements and NYS DAM guidance to ensure emergency access, while minimizing the extent of impervious materials and soil compaction.</p>	<p>The Applicant is not proposing any battery storage for the Facility, making this provision inapplicable to the Facility.</p>

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<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
<p>§7.2(J) No solar panels shall be placed on slopes of 15 percent or greater as averaged over 50 horizontal feet. No cutting or filling may be done to alter natural slopes for placement of panel arrays. Site disturbance, including but not limited to, grading, soil removal, excavation, and soil compaction in connection with installation of utility-scale solar energy facilities shall be minimized to the extent practicable.</p>	<p>The Applicant is requesting a wavier of this provision. See Appendix 24-6.</p>
<p>§7.2(K) The solar energy system shall comply with New York state stormwater regulations as set forth in GP-0-20-001. The Stormwater Pollution Prevention Plan shall demonstrate that the solar system will not create adverse drainage, runoff, or hydrology conditions that could impact adjoining and other non-participating properties in violation of New York state stormwater requirements.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§7.2(L) Designated traffic routes for construction and delivery vehicles to minimize traffic impacts, wear and tear on local roads, and impacts on local business operations shall be proposed by the applicant and reviewed by the Planning Board.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§7.2(M) Blasting is prohibited for the construction of all utility-scale solar energy facilities.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§7.2(N) Utility-scale solar energy systems structures and equipment are prohibited in cemeteries and burial grounds. The applicant shall consult with the Town historian and with the NYS Office of Parks Recreation and Historic Preservation to identify any such burial grounds within the project site.</p>	<p>The Facility has been designed to comply with this requirement.</p>

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
<p>§7.2(O) Utility-scale solar energy systems shall not be installed on Town-owned bodies of water, nor shall they be installed within 1,000ft of drinking water sources of any type regardless of intended for human or livestock consumption.</p>	<p>T The Applicant is requesting a wavier of this provision. See Appendix 24-6.</p>
<p>§7.2(P) Previously cleared or disturbed areas are preferred locations for solar projects. Forested sites shall not be deforested to construct solar energy facilities. Any clearcutting shall follow the Adirondack State Park Law N.Y. Comp. Codes R. &amp; Regs. 573.7</p>	<p>The Applicant is requesting a wavier of this provision. See Appendix 24-6.</p>
<p>§7.2(Q) There shall be a minimum 500-foot setback between any utility scale ground mounted solar panel structures and associated electrical equipment to the parcel boundary line with any non-participating property, public road, or public area. Fencing, collection lines, access roads and landscaping may occur within the setbacks.</p>	<p>The Applicant is requesting a wavier of this provision. See Appendix 24-6.</p>
<p>§7.2(R) Solar energy systems shall avoid or minimize adverse impacts to species in need of protection, as defined herein, or their occupied habitats, to the maximum extent practicable.</p>	<p>The Facility has been designed to comply with this requirement to the maximum extent practicable. See Exhibit 12.</p>
<p>§7.2(S) Solar energy systems shall be limited to no more than 40 percent, down from 80% allowable coverage of land that is not ideal for normal agriculture, of the total acreage on prime agricultural areas classified by the NYS Department of Agriculture and Markets' Agricultural Land Classification as mineral soil groups 1 through 4. All solar energy systems shall adhere to the Department of Agriculture and Markets' Guidelines for Construction Mitigation for Agricultural Lands.</p>	<p>The Facility has been designed to comply with this requirement. Exhibit 15 includes discussion on MSGs 1-4.</p>

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
<p>§7.2(S)(a) Solar Energy System may exceed the forty percent [40%] coverage threshold if it incorporates an onsite activity or program which provides for the use of the land as an agrivoltaics Farming Operation and related agrivoltaics. Exceedance beyond the 40% threshold will only be allowed based on the Town Board determination that the Land is being used for a Farm Operation (ex. Growing crops or raising livestock) and related agrivoltaics. An eighty [80%] maximum lot coverage will be permitted for solar energy systems that accommodate farming operations, subject to the following conditions:</p> <ol style="list-style-type: none"> <li>I. Fencing shall include gates large enough to accommodate farming equipment; and</li> <li>II. If necessary, a maintenance barn or shed shall be provided to store farming equipment and supplies; and, if raising livestock</li> <li>III. If there is no other shelter accessible by the livestock, a barn and shaded areas shall be provided for livestock; and</li> </ol> <p>If no water source exists, a pond or similar must be provided for livestock.</p>	<p>The Applicant is seeking a waiver of the 40% provision in §7.2(S) making this provision inapplicable. See Appendix 24-6.</p>
<p>§7.2(S)(b) Subject to discretion of the Town Board if the landowner demonstrates that – notwithstanding the classification as prime farmland – the land cannot reasonably be made profitable as farming operation due to flooding, high water table, wetlands, saturated soils, erosion, rocky conditions, lack of minerals, poor soil temperature, steep slopes, or similar conditions as approved by the Town Board, the Solar Energy Facility shall be permitted to occupy eighty percent [80%] of the Prime Farmland within the Facility Area.</p>	<p>The Applicant is requesting a waiver of §7.2(S)(a), making this provision inapplicable.</p>

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
To the maximum extent practicable, utility-scale Solar Energy Systems located on Prime Farmland shall be constructed, monitored, and decommissioned in accordance with the NYS Department of Agriculture and Markets “Guidelines for Solar Energy Projects – Construction Mitigation for Agricultural Lands.”	
§7.2(T) All transmission lines, especially those traversing nonparticipating properties, and wiring associated with a utility-scale solar energy system shall be buried and include necessary encasements in accordance with the National Electric Code. The Planning Board may waive this requirement if sufficient engineering data is submitted by the applicant to demonstrate that underground transmission lines are not feasible, or practical or other best practices exist. The applicant is required to show the locations of all proposed overhead and underground electric utility lines including substations, switchyards, junction boxes and other electrical components for the project on the site plan. All transmission lines and electrical wiring shall comply with the utility company’s requirements for interconnection.	The Applicant is seeking a waiver of this provision. See Appendix 24-6.
§7.2(U) Noise levels from the solar energy system will comply with the noise limits for solar energy facilities contained in the New York Office of Renewable Energy Siting regulations at 19 NYCRR 900 by following the limits laid out by 19 NYCRR 900-2.8	The Facility has been designed to comply with this requirement.
§7.2(V) Pre, post and during construction working hours shall be limited to Monday through Friday between the hours of 7 a.m. and 6 p.m. The Town Board shall have discretion on whether to allow work on Saturdays. Work shall not be done outside these hours or on Sundays and holidays, to ensure the quiet rural characteristics of the	The Applicant is requesting a wavier of this provision. See Appendix 24-6.

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
Town. Construction lighting shall be limited consistent with Requirement “H” above.	
§7.2(W) Wherever a point of ecological interest exists there shall be a buffer zone of 50 feet surrounding that shall remain as native vegetative habitat. For example, if there is a natural pong, wetland, stream, or other protected habitat, no construction or deformation of the land shall occur within 50 feet of the shore, river bank, or marsh boundary.	The Applicant is requesting a wavier of this provision. See Appendix 24-6.
§7.3(A) Utility-scale solar energy systems shall execute a road use agreement with the Town if town roads are to be used for the project. Prior to the issuance of the building permit and commencement of construction, an existing condition survey of the approved hauling routes using town roads shall be undertaken by the applicant at the applicant’s expense. Any road damage during construction caused by the operator or its subcontractors on town roads shall be repaired or reconstructed to the satisfaction of the Town Highway Superintendent at the operator’s expense.	The Facility has been designed to comply with this provision.
§7.3(B) The applicant for a utility-scale solar energy system shall execute an indemnification agreement with the Town. The agreement shall require the applicant/owner/operator to at all times defend, indemnify, protect, save, hold harmless and exempt the Town and its officers, councils, employees, attorneys, agents and consultants from any and all penalties, damages, costs or charges arising out of any and all claims, suits, demands, causes of action or award	The requirement of an indemnification agreement is procedural and therefore supplanted by Article VIII.

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
<p>§7.3(C) The applicant shall execute a decommissioning agreement as described in Section Nine of this law.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII. The Applicant has drafted a Decommissioning and Site Restoration Plan as a part of Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§7.3(D) The applicant shall enter into a community host agreement providing a public benefit fee of no less than \$5,000 per mw of energy generating capacity per year either for the life of the project or for a negotiated timespan which will be determined through meetings between the solar energy companies and the Town of Root. These funds shall be utilized to mitigate the additional burdens placed on the town as a result of the project, as a source of funding for prospective cots, for expenses associated with and related to anticipated municipal services, for municipal projects that benefit the community, and additional infrastructure improvements to be provided as a result of the project’s presence within the town, as well as for potential tax relief for non-project property owners. These funds are to be paid to the town by the solar energy company, not by the leasing landowner.</p>	<p>The requirement of a payment is procedural and therefore supplanted by Article VIII. Additionally, it is unlawful for a municipality to require an applicant to pay the municipality pursuant to an HCA for a zoning approval. <i>CSG-Gutami LLC and 3 Sisters Solar Farm, LLC v. Town Board of the Town of Chemung, and Town of Chemung, New York</i>, Index No. 2023-5505 (Chemung Cty. 2023). The Applicant is fully committed to working with the Town to negotiate PILOTs and HCAs, as stated at community meetings and pre-application consultations. However, to the extent that this provision requires an additional payment, this provision is procedural and unlawful and therefore, does not apply to the Facility.</p>
<p>§7.4(A) Before any utility-scale solar energy system becomes active, the owner of the systems arrange an on-site meeting with the fire department having primary coverage of the project area to review the components of the system, safety issues and procedures for emergency response. This shall include details on the location of labeled warnings, access to the site, and emergency disconnection of the system. In addition, the Town may require the installation of placards that provide mutual aid responders with sufficient information to protect them when responding to calls on site.</p>	<p>The Facility will comply with this provision.</p>



Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
<p>§7.4(B) If the owner or operator of the solar energy system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, decommissioning plan, security and any agreements. A new owner or operator of the solar energy system shall notify the Building Inspector and the Town Supervisor of such change in ownership or operator 30 days prior to the ownership change. Failure to provide this notice will result in the commencement of an enforcement proceeding against the Applicant by the Code Enforcement Officer.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p>
<p>§7.4(c) The solar energy system owner shall, on a yearly basis, provide the Town with a report showing the rated capacity of the system and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve-month period. The report shall also identify any change in ownership of the solar energy system and/or the land upon which the system is located and shall identify any change in the party responsible for decommissioning and removal of the system upon its abandonment. The annual report shall be submitted no later than 45 days after the end of the calendar year. Every third year, to coincide with the filing of evidence of financial security, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the solar energy system. The Town may require an adjustment in the amount of the surety to reflect changes in the estimated cost of decommissioning and removal. Failure to submit a report as required</p>	<p>The requirement of an annual report is procedural and therefore supplanted by Article VIII.</p>

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
herein shall be considered violation subject to the penalties of the Town of Root local law.	
§7.4(D) Following construction of a utility-scale solar energy system, all disturbed areas where soil has been exposed shall be reseeded with native grasses and/or planted with low-level native vegetation capable of preventing soil erosion and airborne dust.	The Facility has been designed to comply with this requirement.
§7.4(E) Any post-approval changes to the solar energy system, except for immaterial modifications as defined herein, shall be done by amendment to the special use permit only and shall be subject to the requirements of Section Seven of this law. Unless expressly limited by a condition imposed in the permit, the Town Code Enforcement Officer, or other Town Board designee may, during project construction, allow immaterial modifications to the design of the project as represented in the final set of site plans reviewed by the Planning Board. Such immaterial modifications shall only be allowed in response to a written request by the applicant or permittee. All such requests shall be addressed to the authorized Town designee, with copies of the Chairman of the Planning Board, other Town Board designee, and the Town’s designated consultants.	Since the requirement to obtain a special use permit is procedural, it is also procedural and supplanted by Article VIII.
§7.4(F) After completion of a utility-scale solar energy system, the applicant shall provide a post construction certification from a professional engineer registered in New York State that the project complies with applicable codes and industry practices and has been constructed and is operating according to the design plans. The applicant shall further provide certification from the utility that the facility has been inspected and connected.	The requirement to provide this certification is procedural and therefore supplanted by Article VIII.

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
<p>§7.4(G)(1) The holder of a Special Use Permit for a solar energy system shall agree to secure and maintain for the duration of the permit, public liability insurance as follows (unless waived by the Town Board for smaller systems)</p> <p>A. Commercial general liability covering personal injuries, death and property damage: \$5,000,000 per occurrence, \$10,000,000 aggregate, which shall specifically include the Town and its officers, councils, employees, attorneys, agents and consultants as additional named insured;</p> <p>B. Umbrella Coverage \$10,000,000</p>	<p>The requirement to provide insurance is procedural and therefore supplanted by Article VIII.</p>
<p>§7.4(G)(2) Insurance Company: The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the State and with at least a Best’s Rating of “A”.</p>	<p>The requirement to provide insurance is procedural and therefore supplanted by Article VIII.</p>
<p>§7.4(G)(3) Insurance Policy Cancellation: The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days prior written notice in advance of cancellation.</p>	<p>The requirement to provide insurance is procedural and therefore supplanted by Article VIII.</p>
<p>§7.4(G)(4) Insurance Policy Renewal: Renewal or replacement policies shall be delivered to the Town at least 15 days before the expiration of the insurance that such policies are to renew or replace.</p>	<p>The requirement to provide insurance is procedural and therefore supplanted by Article VIII.</p>
<p>§7.4(G)(5) Copies of Insurance Policy: No more than 15 days after the grant of the permit and before construction is initiated, the permit holder shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.</p>	<p>The requirement to provide insurance is procedural and therefore supplanted by Article VIII.</p>

Local Substantive Law	Compliance
<b>Town of Root – Solar Facilities Law §5 Applicability</b>	
<p>§7.4(G)(6) Certificate of Insurance: A certificate of insurance that states it is for information purposes only and does not confer sufficient rights upon the Town shall not be deemed to comply with this law.</p>	<p>The requirement to provide insurance is procedural and therefore supplanted by Article VIII.</p>

Local Substantive Law	Compliance
<b>Town of Root Solar Law - §9 Abandonment or Decommissioning of Systems</b>	
<p>§9.1 An owner or operator of a utility-scale solar energy system that has not supplied energy to the grid for a period of six consecutive months must notify the Town Supervisor and the Town Building Inspector in writing that the system is no longer operating. If the system does not resume normal operation for an additional 12 consecutive months, the system shall be deemed to be abandoned and shall be decommissioned within six months by the owner or operator. A decommissioning plan shall be submitted as part of the solar permit application to the Planning Board. The Decommissioning Plan shall run to the benefit of the Town of Root and be executed by the Applicant and such signatures shall be notarized in a format that allows the decommissioning plan to be recorded at the Office of the Montgomery County Clerk. The plan should identify the anticipated life of the project, and include, but not limited to, the following provisions:</p>	<p>The Applicant has combined Section 9.1 and Section 9.3(A) for the purpose of this compliance determination due to the conflicting language of the provisions. Both requirements base the decommissioning timeline being triggered by not providing electricity for a period of 12 months after already not providing electricity for an initial period of 6 months. However, Section 9.1 states that the solar energy system must be decommissioned within six months and Section 9.3(B) states that decommissioning must be started within 6 months, but has 12 months to complete the decommissioning process. After receiving notification about the cessation of electricity, the Applicant would need time to gather the resources to initiate the decommissioning process. Therefore, the more reasonable interpretation of the contradictory language of the two provisions would be that the Facility has 6 months to begin decommissioning, and must complete decommissioning within 12 months. Based on this interpretation the Facility has been designed to comply with this requirement.</p>

Local Substantive Law	Compliance
<b>Town of Root Solar Law - §9 Abandonment or Decommissioning of Systems</b>	
<p>§9.1(A) The removal of all energy facilities, structures and equipment including any subsurface wires and footings from the parcel. Any access roads created for building or maintaining the system shall also be removed and re-planted with vegetation in coordination of the landowners wishes.</p>	<p>The Applicant is requesting a waiver of this provision. See Appendix 24-6.</p>
<p>§9.1(B) The cost of removing the entire solar energy system based upon prevailing wages and any other requirements applicable to municipalities under state of federal law and no salvage value shall be attributed to any of the components of the solar energy systems and/or the solar energy equipment.</p>	<p>The Applicant is requesting a waiver of this provision. See Appendix 24-6.</p>
<p>§9.1(C) A schedule and methods for the removal of the solar energy system and/or the solar energy equipment including any ancillary structures.</p>	<p>The Facility has been designed to comply with this provision.</p>
<p>§9.1(D) A plan for restoring the property to its pre-installed condition, including grading and vegetative stabilization to eliminate any negative impacts to surrounding properties, and, where if it was previously used for farming, with vegetation suitable for farming purposes, i.e. a hay field, crops or grazing. The estimated time of this restoration should be included in the plan.</p>	<p>The Facility has been designed to comply with this provision.</p>
<p>§9.1(E) A proposed Decommissioning Agreement (the “Agreement”), which shall be provided by the applicant and approved by the Town Board. No building permit shall be issued for a solar energy system until the Decommissioning Agreement between the applicant and the town has been executed and financial security provided as below set forth.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p> <p>The Applicant has submitted a Decommissioning and Restoration Plan as a part of Exhibit 23. The restriction of a building permit is procedural and therefore supplanted by Article VIII.</p>

Local Substantive Law	Compliance
<b>Town of Root Solar Law - §9 Abandonment or Decommissioning of Systems</b>	
<p>§9.1(E)(i) The decommissioning agreement will require that all solar panels are reused everywhere or recycled to the greatest extent practicable.</p>	<p>This provision is procedural and therefore supplanted by Article VIII.</p> <p>The Applicant has submitted a Decommissioning and Restoration Plan as a part of Exhibit 23. The restriction of a building permit is procedural and therefore supplanted by Article VIII.</p>
<p>§9.1(F) The operator shall identify a responsible person with contact information for public inquiries from the commencement of the construction of the solar energy system until the completion of the decommissioning plan.</p>	<p>This provision is procedural and therefore supplanted by Article VIII</p>
<p>§9.1(G) Failure of the Applicant to comply with the approved decommissioning plan upon abandonment shall allow the Town the option to utilize the security for the removal of the utility-scale solar energy system.</p>	<p>The Facility has been designed to comply with this requirement.</p>
<p>§9.2(A) Security 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 removal of the solar energy system and restoration of the site subsequent to removal. The Security shall be an evergreen letter of credit issued by an A-rated financial institution (relating to Standard &amp; Poor’s Rating Services, Inc. (“S&amp;P”) or any successor agency thereto) or an A3 rating financial institution (relating to Moody’s Investor Services (“Moody’s”) or any successor rating agency thereto) on behalf of the company, substantially in the form attached hereto as Exhibit A. The amount of the bond or security shall be 125 percent of the estimated cost of removal of the solar energy system and restoration of the property, with an escalator of 2 percent annually (or Consumer Price Index change if more than the annual escalator of 2 percent) for the life of the solar energy system and shall not take into account</p>	<p>The Applicant has combined Section 9.1 and Section 9.3(A) for the purpose of this compliance determination due to the conflicting language of the provisions. Both requirements base the decommissioning timeline being triggered by not providing electricity for a period of 12 months after already not providing electricity for an initial period of 6 months. However, Section 9.1 states that the solar energy system must be decommissioned within six months and Section 9.3(B) states that decommissioning must be started within 6 months, but has 12 months to complete the decommissioning process. After receiving notification about the cessation of electricity, the Applicant would need time to gather the resources to initiate the decommissioning process. Therefore, the more reasonable interpretation of the contradictory language of the two provisions would be that the Facility has 6 months to begin decommissioning, and must complete</p>

Local Substantive Law	Compliance
<b>Town of Root Solar Law - §9 Abandonment or Decommissioning of Systems</b>	
<p>the net salvage value of any such project components. The security established by the agreement shall not be subject to disclaimer or rejection in a bankruptcy proceeding. Alternative financial surety methods may be proposed if necessary.</p>	<p>decommissioning within 12 months. Based on this interpretation the Facility has been designed to comply with this requirement.</p>
<p>§9.2(B) In the event of default upon performance of such conditions, after proper notice and expiration of any cure periods, the security shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The security shall remain in full force and effect until 90 days after the restoration of the property, as set forth in the decommissioning plan, is completed.</p>	<p>The Facility has been designed to comply with this provision. Additional information is located in Exhibit 23: Site Restoration and Decommissioning.</p>
<p>§9.2(C) The Town Board shall, each year prior to the adoption of the annual budget, review all security instruments provided to the Town in connection with utility scale solar projects to insure that the security remains in effect.</p>	<p>The Applicant acknowledges that the Town may choose to review security instruments provided to the Town.</p>
<p>§9.3(A) The approval for a Utility-Scale Solar Collector System shall be valid for a period of 36 months, provided that construction is commenced within that time frame. In the event construction is not commenced in accordance with the site plan approval and solar permit within 36 months, the Applicant may request to extend the time to commence construction for 12 months. Approval of a request to extend the time to commence construction shall not be unreasonably withheld by the Town Planning Board. If having commenced construction, the Applicant fails to complete construction within 36 months after having commenced construction, the Planning Board site plan approval and solar permit shall expire and a new application begun and any fees resubmitted prior to any construction recommencing. If the Applicant fails to perform, the Town Planning Board or the Code</p>	<p>The Applicant has combined Section 9.1 and Section 9.3(A) for the purpose of this compliance determination due to the conflicting language of the provisions. Both requirements base the decommissioning timeline being triggered by not providing electricity for a period of 12 months after already not providing electricity for an initial period of 6 months. However, Section 9.1 states that the solar energy system must be decommissioned within six months and Section 9.3(B) states that decommissioning must be started within 6 months, but has 12 months to complete the decommissioning process. After receiving notification about the cessation of electricity, the Applicant would need time to gather the resources to initiate the decommissioning process. Therefore, the more reasonable interpretation of the contradictory language of the two provisions would be that the Facility has 6 months to</p>



Local Substantive Law	Compliance
<b>Town of Root Solar Law - §9 Abandonment or Decommissioning of Systems</b>	
<p>Enforcement Officer may notify the Applicant to implement the decommissioning plan. In such an instance, the decommissioning plan must be started within 6 months from the notification by the Town Planning Board or the Town Building Inspector and completed in 12 months of starting.</p>	<p>begin decommissioning, and must complete decommissioning within 12 months. Based on this interpretation the Facility has been designed to comply with this requirement.</p>
<p>§9.3(B) Cessation of electricity being generated for a period of six months constitutes abandonment of the Utility-Scale Solar Collector System project, unless an agreement was previously reached between the Town Planning Board and the Applicant. Upon cessation of electricity generation of a Utility-Scale Collector System on a continuous basis for 12 months, the Town Planning Board or the Town Building Inspector may notify and instruct the Applicant to implement the decommissioning plan. The decommissioning plan must be started within 6 months from the notifications by the Town Planning Board or the Town Building Inspector and completed in 12 months of starting.</p>	<p>The Facility has been designed to comply with this requirement.</p>

Local Substantive Law	Compliance
<b>Town of Root Solar Law - §10 Maintenance</b>	
<p>§10.1(A) The owner/operator shall present a written facility update to the Town Board annually, in the month of March, in person at a regularly scheduled meeting of the Town Board. In the event of a weather emergency or quarantine the report may be provided in writing to the Town Board.</p>	<p>The requirement to submit an annual report is procedural and therefore supplanted by Article VIII.</p>
<p>§10.1(B) One month prior to the March Town Board meeting, the owner/operator shall submit an updated registration form for the facility which provides contact information for all responsible parties: the owner, operator, engineer, and local property management.</p>	<p>This requirement is procedural and therefore supplanted by Article VIII. The Applicant will provide notice to the Town prior to the commencement of construction in accordance with the Article VIII regulations.</p>



Local Substantive Law	Compliance
<b>Town of Root Solar Law - §10 Maintenance</b>	
§10.2(A) Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and, if the Solar Energy System is located in an ambulance district, the local ambulance corps.	The Facility has been designed to comply with this requirement.
§10.2(B) If Energy Storage Devices are including as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be removed and disposed of or recycled or reused off site in accordance with the laws and regulations of the Towns, and any applicable federal, state, or county laws or regulations.	The Facility does not include energy storage, making this provision inapplicable.

**24(e) Agencies with Review, Inspection, or Certification Responsibilities**

Municipal officials for the Towns of Root and Canajoharie are responsible for the review and approval of building plans, inspecting construction work, and certifying compliance with the New York State Uniform Fire Preservation and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of local applicable electrical, plumbing, and building codes. The procedural process of obtaining building permits is pre-empted by Article VIII, and therefore the Applicant is not required to obtain building permits or certificates of occupancy from the local municipalities. However, the Facility will comply with the substantive provisions of the Uniform Code and the Towns are responsible for reviewing and certifying compliance with the Uniform Code, to the extent the Uniform Code is applicable.

The name and contact information for the Town of Root Code Enforcement Officer is: Fire & Building Code Enforcement Officer – Clifton Dorrrough, 1048 Carlisle Road Sprakers, NY 12166.

The name and contact information for the Town of Canajoharie Code Enforcement Officer is: Fire & Building Code Enforcement Officer – Les Hasson, 12 Mitchell Street, Canajoharie NY 13317.

The Applicant will enter into an agreement to arrange with the Towns for the review, approval, inspection and compliance certification for work required to comply with the Uniform Code, including arrangements to pay for the costs for any necessary consultant services.

Alternatively, the Applicant may request to submit the building plans to the Department of State, in order to obtain compliance with the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code of New York State, and the substantive provisions of any applicable local electrical, plumbing, or building code. In that case, the Applicant would arrange for the Department's review, approval, inspection, and compliance certification, including any arrangements to pay for the costs for any necessary consultant services to the extent such fees are not paid through the Applicant's application fee.

### **24(f) Zoning**

The Facility is a 300-MW solar facility proposed within the Towns of Root and Canajoharie, Montgomery County, New York. The Facility is proposed to be sited on 44 parcels of land totaling 3,794 acres (Facility Site), as shown on Figure 3-1. The Facility Site is situated south of New York Interstate I-90 and the Mohawk River, and west of State Highway 162, with one parcel east of State Highway 162.

The portion of the Facility Site in the Town of Canajoharie (approximately 1,332 acres) consists of Agricultural/Rural Residential, and Residential zoning districts. The remainder of the Facility Site is within the Town of Root, in which there is no established zoning code. See Figure 3-4.

The Town of Canajoharie adopted a zoning law in 2001, as part of Local Law No. 1 of 2001. Within this Local Law the Town of Canajoharie is divided into four districts which includes, Residential (R) District, Agricultural/Rural Residential (A) District, Commercial (C) District, and the Manufacturing (M) District. Additionally, there are three established overlay districts including the Personal Wireless Service Facilities (PWSF) Overlay District, Critical Environmental (CE) Overlay District, and the Scenic Resources (SR) Overlay District. Note, to date the Applicant is not aware of the Town creating the CE or SR overlay districts. The Zoning Law of the Town of Canajoharie requires that the Town adopt a map entitled "Critical Environmental Overlay District" and "Scenic Resource Overlay District" before the overlay is created. The Applicant has been unable to locate any maps with these districts and the Town has not responded to requests for information. In addition, there are no standards associated with these districts within the Town's Zoning Law.

The substantive criteria for approving a site plan are contained in Article IX of the Zoning Law and closely parallel the factors required to be considered by ORES in its review of the Application. These criteria are set forth below:

- Adequacy of layout and design of vehicular and pedestrian access and circulation including intersections, road widths, pavement surfaces, traffic controls, walkway structures, and overall pedestrian convenience.
- Adequacy of layout and design of off-street parking, loading, lighting, signage, and general relationship with proposed and existing structures.
- Adequacy of stormwater and drainage facilities, water supply, and sewage disposal facilities.
- Adequacy of type and use of trees, shrubbery and other landscape elements for aesthetic, screening or buffering purposes and the relationship with existing trees and vegetation, which shall be incorporated to the maximum possible extent.
- Adequacy of provision of open space and recreational areas, when appropriate.
- Adequacy of protection of adjacent properties from noise, glare, unsightliness or other objectionable features.
- Adequacy of provisions for emergency vehicular zones and firefighting access.
- Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding, slippage, and/or erosion.
- For new construction, the layout and location of underground cables, such as electric, telephone, cable T.V., etc.
- Adequacy and appropriateness of legal mechanisms proposed to remove land from future development in order to comply with the Density Standard of this law.