

**MUNICIPAL ROAD REPAIR and MAINTENANCE
SECURITY AGREEMENT**

This Agreement is made and entered into as of the _____ day of February 2025, by and between **Pivot Solar NY 11 LLC** with an address of **1601 Wewatta Street, Suite 700, Denver, Colorado 80202** (the "Developer"). and the **TOWN OF LERAY**, a municipal corporation within the State of New York, having its principal place of business at 8650 LeRay Street Evans Mills, NY 13637 (the "Municipality"). The Developer and the Municipality may be referred to in this Agreement, individually, as a "party" and jointly, as the "parties."

RECITALS

WHEREAS, Developer proposes to construct a **4 MW Solar Energy Project at 28746 Martin Road North** in the Town of LeRay (the "Project"); and

WHEREAS, Developer will need to use public roadways within the Municipality to access the Project site during construction; and

WHEREAS, the Municipality is concerned about excess wear and tear on the municipal roadways from overweight construction vehicles during construction of the Project; and

WHEREAS, the municipal roadways to be used are described in "Exhibit A"; and

WHEREAS, the Municipality is requiring the Developer to post financial security in the amount of \$134,000 (the "Security") to ensure any excess wear and tear to the municipal roadways, which it makes use of, are repaired and maintained in the same or better condition as existed prior to the commencement of the Project; and

WHEREAS, this Agreement sets forth the terms and conditions by which the Developer shall provide the Municipality with such Security to pay for and/or reimburse the Municipality for the maintenance and repair of the municipal roadways.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, and intending to be legally bound hereby, the parties do hereby agree as follows:

1. RECITALS

The recitals set forth above are incorporated herein and made a part of this Agreement.

2. EFFECTIVE DATE

This Agreement shall become effective upon its execution by all parties (the "Effective Date"). The term of this Agreement (the "Term") shall commence on the Effective Date and terminate one (1) year following the Municipality receiving written notification from the Developer that that Construction Activities have been completed and the roadways

having been properly repaired, all as confirmed by the Town Engineer.

3. CONSTRUCTION ACTIVITIES

The "Construction Activities" shall refer to and mean all such activities related to the development and construction of the Project.

4. GRANT OF SECURITY

- A. As security to guarantee the maintenance and repair of the municipal roadways (as identified in Exhibit A) resulting from excess wear and tear due to Construction Activities at and around the Project site, the Developer hereby agrees to provide the Municipality with a cash deposit in the amount of One Hundred Thirty Four Thousand (\$134,000) ("Security"). The Developer shall provide this Security to the Municipality within fourteen (14) days after the execution of this Agreement by all parties.
- B. The Security shall be deposited by the Municipality in a separate non-interest-bearing account in a bank licensed to conduct business in the State of New York. The account shall be held in the name of the Municipality and controlled by the Municipality. The account shall be used exclusively as a depository for the Security and shall not contain any other funds of the Municipality. The Security shall be used by the Municipality in accordance with this Agreement.
- C. The Municipality hereby represents and covenants (i) it will draw against the Security upon its determination that damage to one or more of the municipal roadways identified in Exhibit A has occurred beyond the Pre-Construction Baseline (as defined below); and (ii) use of the Security shall be limited to payment and/or reimbursement for post-construction engineering evaluation and inspection, and the costs of municipal road maintenance, repair, restoration and resurfacing, as needed.
- D. Before drawing against the Security as provided in this Agreement, the Municipality shall provide Developer advance written notice of its intent to draw down the Security. Such notice to Developer shall include, without limitation, the (i) specific name of the roadway; (ii) photographs or other documented evidence of damage; (iii) proposed scope of work; and (iv) projected cost for such work to be completed by the Municipal highway department, or such other agent(s) as may be appropriate in a timely reasonable manner.
- E. If the Town Board decides that the cost of roadway maintenance and repair to be completed, or the Construction Activities have been completed as provided herein, in a sufficient amount to warrant reduction in the amount of the Security, the Town Board may reduce the amount of the Security to be held by the Municipality. Any funds exceeding the reduced amount of Security shall promptly be returned to the Developer. In contrast, nothing herein shall prevent the Town Board from requiring additional security.

- F. Upon the completion of the Construction Activities, the Developer shall provide the Municipality with written notice of such completion and request that the Security, or remaining portion thereof, be released and returned to the Developer no later than one (1) year following completion of the Construction Activities. The Municipality agrees to return the Security, or remaining portion thereof, to the Developer and release the Developer from its obligations under this Agreement no later than one (1) year following receipt of a written certification from the Town's Engineer that the Construction Activities have been completed in accordance with all applicable laws, this Agreement and the Approved Site Plans, as may be amended, and that impacted municipal roadways have been maintained and repaired to the same or better condition as the Pre- Construction Baseline.

5. PRE-CONSTRUCTION BASELINE OF ROADWAY CONDITIONS

The Developer shall, at its sole cost and expense, retain an independent New York licensed professional civil engineer to inspect the municipal roadways identified in Exhibit A, including performance of visual inspections, core testing, or other standard road evaluation practices, prior to the commencement of Construction Activities to determine the pre-construction condition of such roads, taking into account road surface, base, sub-base, cross-section, and shoulder (the "Pre- Construction Baseline"). Photographs and/or video for the Pre-Construction Baseline will be taken at a maximum interval of two hundred (200) feet, and at substantially lesser intervals in the vicinity of all access road intersections, to document the condition of all identified municipal roadways that may be impacted by traffic relating to construction of the Project. The results of the Pre-Construction Baseline shall be set forth in a written report certified to the Town by the Developer's civil engineer, and such report shall be subject to the approval of the Town Engineer. The Town Engineer shall approve or disapprove the Pre-Construction Baseline within twenty (20) business days following receipt of the same from the Developer.

6. MISCELLANEOUS

- A. Notices. All notices required under this Agreement will be in writing and will be served by personal delivery, or by prepaid, express mail (next day) via a nationally known courier service, or by prepaid, registered or certified mail, addressed to the respective parties at their addresses set forth below. Any such notice will be deemed to be given and effective: (i) if personally delivered, then on the date of such delivery; (ii) if sent via express mail (next day) then one (1) business day after the date such notice is sent; or (iii) if sent by registered or certified mail, then three (3) business days following the date such notice is deposited in the United States mail addressed as aforesaid. For purposes of this Agreement, "business day" shall be deemed to mean a day of the week other than a Saturday or Sunday or other holiday recognized by banking institutions of the State of New York.

Copies of all notices shall be sent to the following:

If to Developer: **Pivot Solar NY 11 LLC**
1601 Wewatta Street, Suite 7400
Denver, Colorado 80202

With a Copy To: Kendall, Harrienger & Burrows
120 Washington Street, Suite 500A
Watertown, NY 13601

If to the Municipality Town of LeRay
ATTN: Town Supervisor
8650 LeRay Street
Evans Mills, NY 13637

- B. Parties in Interest. All the terms and provisions of this Agreement will be binding upon and inure to the benefit of and be enforceable by the heirs, legal representatives, successors and permitted assigns of the parties hereto.
- C. Entire Contract. There are and were no verbal or written representations, warranties, understandings, stipulations, agreements, or promises pertaining to the subject matter of this Agreement made by the parties or any agent, employee, or other representative of the parties or any other person representing or purporting to represent the parties, not incorporated in writing in this Agreement, and neither this Agreement nor any of the terms, provisions, conditions, representations, or covenants contained in this Agreement can be modified, changed, terminated, amended, superseded, waived, or extended except by an appropriately written instrument specifically referencing this provision duly executed by the parties.
- D. Originals. This Agreement may be executed in counterparts, each of which will be an original, and a digital copy showing execution shall be given the same force and effect of an original.
- E. Section and Other Headings. The section and other headings contained in this Agreement are for reference purposes only and will not in any way affect the meaning or interpretation of the text of this Agreement.
- F. Governing Law. This Agreement will be construed and enforced in accordance with the laws of the State of New York, without giving effect to any conflict of laws or choice of law rules to the contrary.
- G. Assignment of Contract. The Developer shall not assign any interest in this Agreement or the Security, except to corporate affiliates, without the prior written consent of the Municipality, which consent shall not be unreasonably withheld, conditioned, or delayed.

- H. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Developer and the Municipality and their respective legal representatives, successors, heirs and permitted assigns. and no other person or entity shall be entitled to rely upon or receive any benefit from this Agreement.

- I. Severability. If any provision of this agreement is held invalid by Court of Law, the remainder of this Agreement shall not be affected thereby and shall be enforced to the maximum extent permitted by the Laws of the State of New York.

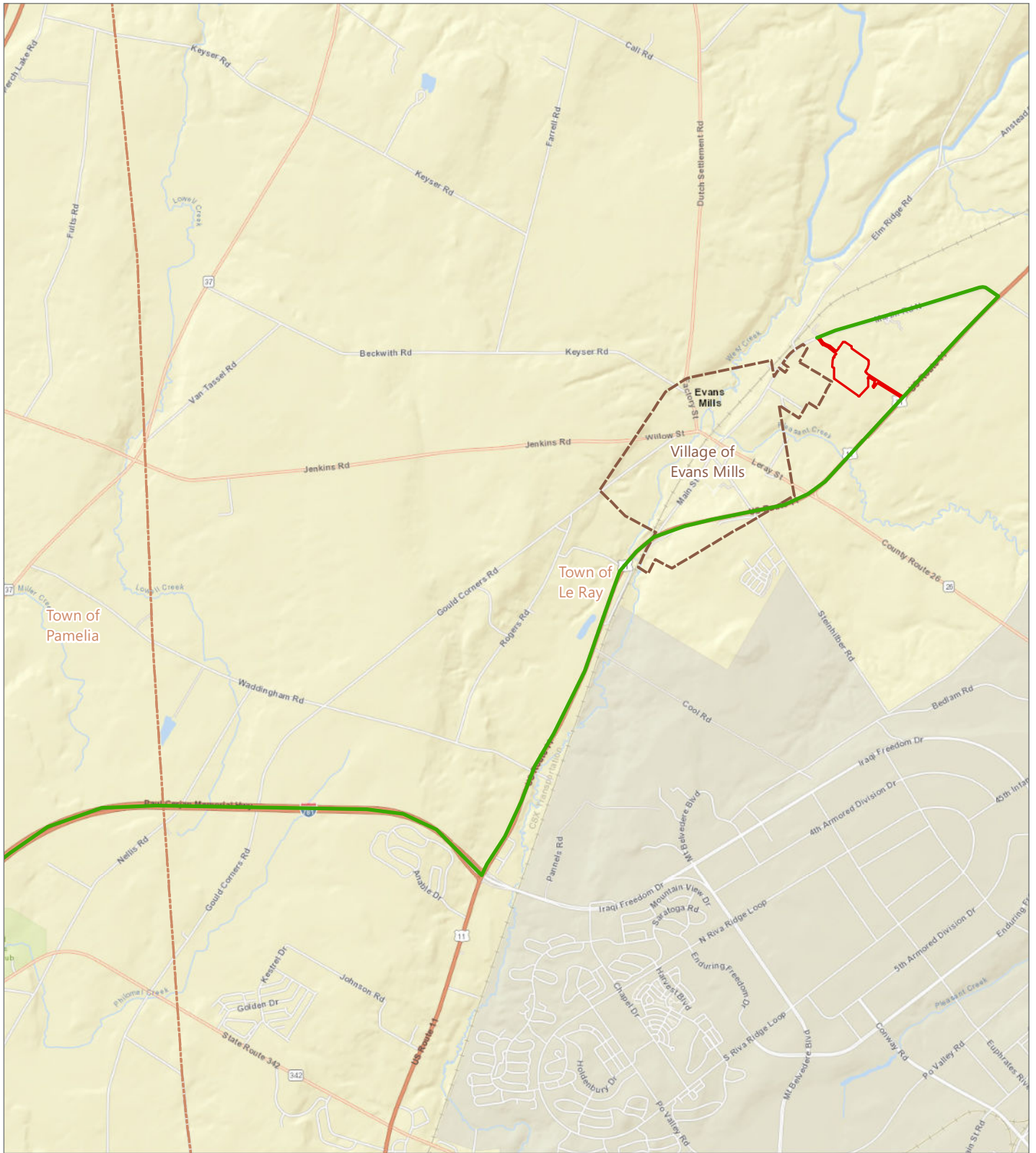
IN WITNESS WHEREOF, Developer and Municipality have duly executed this Agreement as of the Effective Date.

TOWN OF LERAY

By: _____
Name: _____
Title: _____

Pivot Solar NY 11 LLC
(Developer Name)
By: JB
Name: Jonathan Fitzpatrick
Title: Authorized Representative

Anticipated Haul Routes



Pivot Solar NY 11

Town of Le Ray, Jefferson County, New York

Site Plan Application

- Anticipated Haul Route
- Project Area
- City/Village Boundary
- Town Boundary








Pivot Solar NY 11 LLC Road Maintenance Agreement_20250206

Final Audit Report

2025-02-06

Created:	2025-02-06
By:	Gordon Woodcock (gwoodcock@pivotenergy.net)
Status:	Signed
Transaction ID:	CBJCHBCAABAANTJ1Cvxs0ui_wOitbpgcz_mQOpqTdspf

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-  Document e-signed by Jon Fitzpatrick (jfitzpatrick@pivotenergy.net)
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-  Agreement completed.
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