

**TAX ABATEMENT AGREEMENT**  
**March \_\_\_\_, 2024**

Between

**ARMSTRONG COUNTY and AMSTRONG SOLAR II, LLC**

State of Texas

County of Armstrong

This Tax Abatement Agreement (the "Agreement") is made and entered into by and between Armstrong County, Texas ("County"), acting through its duly elected officers and Armstrong Solar II, LLC, and its owners and assigns, ("Owner"), as owner of Eligible Property (as hereinafter defined) to be located on the tract of land comprising the Armstrong County Reinvestment Zone 7, more specifically described in Attachment A to this Agreement and this Agreement becomes effective upon final signature by both parties. The Agreement remains in effect until fulfillment of the obligations described in Paragraph IV(D) herein unless terminated earlier as provided herein.

**I. Authorization**

This Agreement is authorized and governed by Chapter 312 of the Texas Tax Code, as in effect on the date hereof, and by the Armstrong County Guidelines and Criteria for Granting Tax Abatements.

**II. Definitions**

As used in this Agreement, the following terms shall have the meaning set forth below:

- A. "Abatement" means the full or partial exemption from ad valorem taxes on property in a Reinvestment Zone as provided herein.
- B. "Calendar Year" means each year beginning January 1 and ending on December 31.
- C. "Certificate" means a letter, provided by the Owner to the County, certifying that Owner has completed construction of the wind power project or applicable discrete project phase described herein, outlining the Improvements and stipulating the overall Turbine Nameplate Capacity of the project. Upon receipt of the Certificate, the County, with seventy two (72) hours notice, may inspect the property in accordance with this Agreement to determine that the Improvements are in place as certified.

- D. "Certified Appraised Value" means the appraised value, for property tax purposes, of the property within Armstrong County Reinvestment Zone 7, as certified by the Armstrong County Appraisal District for each taxable year.
- E. "Eligible Property" means property eligible for Abatement under the Armstrong County Guidelines and Criteria for Granting Tax Abatements, including: new, expanded or modernized buildings and structures; fixed machinery and equipment; site improvements; related fixed improvements; other tangible items necessary to the operation and administration of the project or facility; as permitted by Chapter 312 of the Texas Tax Code and the Armstrong County Guidelines and Criteria for Granting Tax Abatements. Taxes on Real Property may be abated only to the extent the property's value for a given year exceeds its value for the year in which the Agreement is executed. Tangible personal property located on the Real Property at any time before the period covered by the Agreement is not eligible for Abatement. Tangible personal property eligible for Abatement shall not include inventory or supplies. Eligible Property does not include 'behind the meter uses' for the solar generated power such as battery storage, data centers, green hydrogen or similar uses of solar generated power. Any electrical transmission lines subject to abatement shall not include those lines that transmit power to the items not included in Improvements, such as the above behind the meter uses
- F. "Improvements" means Eligible Property meeting the definition for improvements provided by Chapter 1 of the Texas Tax Code and includes, any building, structure or fixture erected on or affixed to the land. Improvements specifically include the Owner's solar panel installation, foundations, roads, padmount transformers, collection system, operations and maintenance buildings, meteorological towers, substations, generator transmission tie line, communications equipment and switching station that will be located in Armstrong County. In this Agreement, Improvements does not include 'behind the meter uses' for the solar generated power such as battery storage, data centers, green hydrogen or similar uses of solar generated power. Any electrical transmission lines subject to abatement shall not include those lines that transmit power to the items not included in Improvements, such as the above behind the meter uses.
- G. "Owner" means Armstrong Solar II, LLC, the entity that owns or leases the Real Property for which Abatement is being granted, and any assignee or successor in interest to Armstrong Solar II, LLC. The term "Armstrong Solar II, LLC" means and includes the Owner.
- H. "Real Property" means Eligible Property meeting the description for real property provided by Chapter 1 of the Texas Tax Code.
- I. "Reinvestment Zone" means Armstrong County Reinvestment Zone 7, the reinvestment zone (as that term is defined in Chapter 312 of the Texas Tax Code)

created by Armstrong County and described in Attachment A to this Agreement.

- J. "Site" means the portion of the Reinvestment Zone on which Owner makes the Improvements for which the Abatement is granted hereunder.
- K. "Solar Nameplate Capacity" means the generating capacity of an individual solar panels as designated by the manufacturer(s) of the panels to be constructed as Improvements hereunder and where appropriate may refer to the total or overall generating capacity.

### **III. Improvements in Reinvestment Zone**

Owner contemplates making the following Improvements in consideration for the Abatement set forth in Paragraph IV of the Agreement:

- A. Owner agrees to use commercially reasonable efforts to construct Improvements on the Site consisting of solar power facilities with a currently anticipated capacity up to two-hundred fifty (250) megawatts of overall Solar Panel Nameplate Capacity located in the Reinvestment Zone. The Project may be constructed in one or more phases, and each phase may have its own LLC or other form of special purpose project company. Owner may assign rights and responsibilities contained herein to each such project entity in relation to the number of megawatts to be installed by such project company. The Certified Appraised Value will depend upon annual appraisals by the Armstrong County Appraisal District. The number of solar panels and installed megawatts of solar power will vary depending on the types of solar panels used and the size of the solar power facility.
- B. Improvements also shall only include property in the Reinvestment Zone meeting the definition of "Eligible Property" that is used to produce solar power and perform other functions related to, or in support of, the production of solar generated electrical power within Armstrong County Reinvestment Zone 7.
- C. Owner shall commence construction of the first phase of the Improvements, being a minimum of two-hundred fifty (250) megawatts, by no later than December 31, 2026, and shall use commercially reasonable efforts to complete construction of the first phase by and a commercial operation date no later than December 31, 2028.

### **IV. Term and Portion of Tax Abatement; Taxability of Property**

- A. The County and Owner specifically agree and acknowledge that the property in the Reinvestment Zone shall be taxable in the following ways before and during the Term of this Agreement:

1. Property not eligible for Abatement, if any, shall be fully taxable at all times;
  2. The Certified Appraised Value of property existing in the Reinvestment Zone prior to execution of this Agreement shall be fully taxable at all times;
  3. Prior to commencement of the abatement period designated in Paragraph IV (B), 100% of property taxes levied on the Certified Appraised Value of Owner's real and personal property located in the Reinvestment Zone will be owed and payable by Owner;
  4. 100% of the Certified Appraised Value of Eligible Property existing in the Reinvestment Zone shall be fully taxable after expiration of the abatement period designated in Paragraph IV(B).
- B. The County and Owner specifically agree and acknowledge that this Agreement shall provide for tax abatement, under the conditions set forth herein, of all Armstrong County property taxes as follows:
1. Beginning on the January 1<sup>st</sup> of the tax year in which the Owner's completed project or discrete project phase is placed on the tax rolls and ending upon the conclusion of ten full Calendar Years thereafter, the Abatement with respect to such completed project or discrete project phase is 100%.
  2. 100% of property taxes on the Certified Appraised Value of all Improvements described in this Agreement and the Certificate (and actually in place in the Reinvestment Zone) are abated in the respective period designated above.
  3. 100% of property taxes on the Certified Appraised Value of any and all otherwise taxable personal property owned by Owner and located in the Reinvestment Zone are abated in the respective period designated above, unless otherwise excluded from abatement in this Agreement.
  4. The base year (as of January 1, 2026) value for the proposed Improvements is zero.
- C. A portion of all the Improvements may be eligible for complete or partial exemption from ad valorem taxes as a result of existing law or future legislation. This Agreement is not to be construed as evidence that such exemptions shall not apply to the Improvements.
- D. As additional consideration for this Abatement, Owner agrees to make an annual payment to the County of Two Thousand, Five Hundred Dollars per megawatt per year (\$2,500.00/mw/yr) of Solar Nameplate Capacity included in the Certificate (and actually in place in the Reinvestment Zone), subject to a minimum payment

based upon Two hundred megawatts during the ten (10) years the abatement is in effect. Subject to Paragraph IV (B) (1), the first such payment shall be due and payable on January 31, 2026, and delinquent if not paid on or before 30 days after due, with the remaining nine (9) payments due and payable annually on or before January 31 thereafter and delinquent if not paid on or before 30 days thereafter. Is such payment is not paid on or before 30 days Owner shall pay an additional 5% of the payment as penalty.

- E. Owner agrees that the Improvements described in Paragraph III, once constructed, will remain in place until at least twenty (20) Calendar Years after the date the Certificate for such Improvements is provided to Armstrong County by the Owner ("Term"); provided that nothing herein prevents Owner from replacing equipment or fixtures comprising the Improvements prior to that date, as long as such replacement does not result in a reduction of the Certified Appraised Value of the Improvements. In the event that Owner removes Improvements (comprising in the aggregate not more than 5% of all Improvements), the Owner's removal shall not be deemed a default under this Agreement if Owner pays to County as liquidated damages for such removal, within thirty (30) days after demand, all taxes for such removed Improvements which otherwise would have been paid to the County for the then-remaining portion of the Term had the Improvements not been removed. For each year of the Term remaining, the amount of taxes due as liquidated damages for Owners removal of Improvements shall be calculated based upon the (i) forecasted value of the Improvements and (ii) applicable tax rate, in each case of the year such taxes are assessed, such forecasted value to be based on the appraised value of the last complete tax year in which the Improvements were in operation and the scheduled depreciation thereof.. IN THE EVENT OF A BREACH OF THIS PARAGRAPH IV(E), ANY TAXES DUE BY OWNER SHALL BE SUBJECT TO ANY AND ALL STATUTORY RIGHTS FOR THE PAYMENT AND COLLECTION OF TAXES IN ACCORDANCE WITH THE TEXAS TAX CODE.

## **V. Representations**

The County and Owner make the following respective representations:

- A. Owner represents and agrees that if constructed, (i) Owner, its successors and/or assigns, will have a taxable interest with respect to Improvements to be placed on the property; (ii) construction of the proposed Improvements described in Paragraph III will be performed by the Owner, its successors and/or assigns and/or their contractors or subcontractors, (iii) Owner's, its successors' and assigns' use of the property in the Reinvestment Zone is limited to that which is consistent with the general purpose of encouraging development or redevelopment of the area during the period of the Abatement, (iv) all representations made in this Agreement and in the Application for Abatement, if any, are true and correct to the best of Owner's knowledge, and (v) Owner will make required filings, if any, by Owner with the Office of the Comptroller of Public Accounts and other governmental entities

concerning this Agreement that may be required in the future.

- B. The County represents that (i) the Reinvestment Zone and this Agreement have been created in accordance with Chapter 312 of the Texas Tax Code and the Armstrong County Guidelines and Criteria for Granting Tax Abatements as both exist on the effective date of this Agreement; (ii) no abatement will apply to Improvements or the land on which they are located if such land is owned or leased by a member of the County Commissioners Court as of the effective date of this Agreement, (iii) that the property on which the Improvements will be located within the Reinvestment Zone is located within the legal boundaries of the County and (iv) the County has made and will continue to make all required filings with the Office of the Comptroller of Public Accounts and other governmental entities concerning the Reinvestment Zone and this Agreement.

#### **VI. Access to and Inspection of Property by County Employees**

- A. Owner shall allow the County's employees access to the Improvements for the purpose of inspecting any Improvements erected to ensure that the same are conforming to the minimum specifications of this Agreement and to ensure that all terms and conditions of this Agreement are being met. All such inspections shall be made only after giving Owner forty-eight (48) hours notice and shall be conducted in such a manner as to avoid any unreasonable interference with the construction and/or operation of the Improvements. All such inspections shall be made with one (1) or more representatives of Owner in accordance with all applicable safety standards.
- B. Owner shall, within ninety (90) days after the beginning of each Calendar Year, certify annually to the County its compliance with this Agreement by providing a written statement to the same to the County Judge.

#### **VII. Default, Remedies and Limitations of Liability**

- A. The County may declare a default if Owner breaches any material term or condition of this Agreement. If the County declares a default of this Agreement, this Agreement shall terminate, after notice and opportunity to cure as provided for below, or the County may modify the Agreement upon mutual agreement with Owner. In the event of default, the County may pursue the remedies provided for in Paragraph VII(B) and VII(C) below or, if Owner is not in compliance with the provisions of Paragraph IV(E), the preceding Paragraph IV(E), as applicable. The County shall not declare a default, and no default will be deemed to have occurred, when the circumstances giving rise to such declaration are the result of "Force Majeure". "Force Majeure" means any contingency or cause beyond the reasonable control of Owner, including, without limitation, acts of God or the public enemy, war, riot, civil commotion, insurrection, governmental or defacto

governmental action (unless caused by acts or omissions of Owner), fires, explosions, floods, tornadoes and strikes.

- B. The County shall notify (i) Owner and (ii) any lender of record in the Real Property Records of Armstrong County of any default in writing in the manner prescribed herein. All contact information for purposes of a notice default shall be provided to the County Judge. The Notice shall specify the basis for the declaration of default, and Owner shall have ninety (90) days from the date of such notice to cure any default, except that where the default is incapable of being cured within ninety (90) days using reasonable business efforts, Owner shall commence performance of the cure within thirty (30) days after receipt of notice and diligently pursue those efforts until the default is cured. Owner and any lender of which the County has notice shall maintain the right to cure any defect, including any defect caused by an assignee or contractor of Owner during the same cure period identified in the foregoing sentence.
- C. As required by section 312.205 of the Texas Tax Code, if Owner fails to make the Improvements as provided for by this Agreement, the County shall be entitled to cancel the Agreement and recapture property tax revenue lost as a result of the Agreement, subject to the above provisions regarding notice and right to cure.
- D. IN THE EVENT OF A BREACH OF THIS AGREEMENT, ANY TAXES DUE BY OWNER SHALL BE SUBJECT TO ANY AND ALL STATUTORY RIGHTS FOR THE PAYMENT AND COLLECTION OF TAXES IN ACCORDANCE WITH THE TEXAS TAX CODE.
- E. Any notice of default under this Agreement shall prominently state the following at the top of the notice:

**NOTICE OF DEFAULT UNDER TAX ABATEMENT AGREEMENT**

YOU ARE HEREBY NOTIFIED OF THE FOLLOWING DEFAULT UNDER YOUR TAX ABATEMENT AGREEMENT WITH THE COUNTY. FAILURE TO CURE THIS DEFAULT WITHIN NINETY DAYS OF NOTICE OR OTHERWISE CURE THE DEFAULT AS PROVIDED BY THE AGREEMENT SHALL RESULT IN TERMINATION OF THE TAX ABATEMENT AGREEMENT AND PAYMENT OF LIQUIDATED DAMAGES AS PROVIDED IN THE AGREEMENT.

**VIII. Compliance with State and Local Regulations**

Nothing in this Agreement shall be construed to alter or affect the obligations of Owner to comply with any order, rule, statute or regulation of the County or the State of Texas.

**IX. Assignment of Agreement**

The parties agree that the rights and obligations under this Agreement may be assigned, in whole or in part, by Owner to one or more assignees, provided Owner provides the County with twenty (20) days written notice prior to any such assignment and provides the County with a copy of the assignment agreement after it has been entered into. Such assignment shall provide that assignee shall assume all liabilities and obligations under this Agreement of Owner. Assignor however, shall remain responsible for past due financial obligations due to the County under this Agreement. Upon such an assignment and payment of past due obligations, the assignor shall no longer have any interest or liability with respect to the assigned rights and obligations, and an abatement agreement with the same terms and conditions as this Agreement, but with respect only to such assigned rights and obligations, shall be deemed to exist between the assignee and the County. Upon the written request of the assignor or assignee, the County shall acknowledge or evidence in writing any such assignment and the Abatement Agreement.

### **X. Notice**

All notices, demands and other communications of any type (collectively, "Notices") given shall be given in accordance with this Section. All Notices shall be in writing and delivered, by commercial delivery service to the office of the person to whom the Notice is directed (provided that that delivery is confirmed by the courier delivery service); by United States Postal Service (USPS), postage prepaid, as a registered or certified item, return receipt requested in a proper wrapper and with proper postage; by recognized overnight delivery service as evidenced by a bill of lading. Notice delivered by commercial delivery service shall be deemed delivered on receipt or refusal; notices delivered by USPS shall be deemed to have been given upon deposit with the same. Regardless of the method of delivery, in no case shall notice be deemed delivered later than actual receipt. In the event of a notice of default given pursuant to Article VII, such notice shall be given by at least one of the methods of delivery consistent with Section VII(E). All Notices shall be mailed or delivered to the following addresses:

To the Owner:                      Armstrong Solar II, LLC  
500 W. 2<sup>nd</sup> St.  
Suite 1900  
Austin, TX 78701-4687

To the County:                      Armstrong County Judge  
Armstrong County Courthouse  
P.O. Box 189  
Claude TX 79019  
Fax: 806-226-2030

With a copy to:  
Scott Sherwood  
Sherwood & Sherwood  
P.O. Box 947

Panhandle, TX. 79068  
[scott@sherwoodtxlaw.com](mailto:scott@sherwoodtxlaw.com)  
Fax: 806-537-3592

Any party may designate a different address by giving the other party at least ten (10) days written notice in the manner prescribed above.

#### **XI. Severability**

In the event any section or other part of this Agreement is held invalid, illegal, factually insufficient or unconstitutional, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid sections or other part. In the event that (i) the term of the Abatement with respect to any property is longer than allowed by law, or (ii) the Abatement applies to a broader classification of property than is allowed by law, then the Abatement shall be valid with respect to the classification of property not deemed overly broad, and for the portion of the term of the Abatement not deemed excessive. Any provision required by the Tax Code to be contained herein that does not appear herein is incorporated herein by reference.

#### **XII. Applicable Law**

This Agreement shall be construed under the laws of the State of Texas.

#### **XIII. Amendment**

Except as otherwise provided, this Agreement may be modified by the parties hereto upon mutual written consent to include other provisions which could have originally been included in this Agreement or to delete provisions that were not originally necessary to this Agreement pursuant to the procedures set forth in Chapter 312 of the Texas Tax Code.

#### **XIV. Guidelines and Criteria**

This Agreement is entered into by the parties consistent with the Armstrong County Guidelines and Criteria for Granting Tax Abatements. To the extent this Agreement modifies any requirement or procedures set forth in the Armstrong County Guidelines and Criteria, those Guidelines and Criteria are deemed amended for purposes of this Agreement only.

#### **XV. Entire Agreement**

This Agreement contains the entire and integrated Tax Abatement Agreement between the County and Owner, and supersedes any and all other negotiations and agreements, whether written or oral, between the parties. This Agreement has not been executed in

reliance upon any representation or promise except those contained herein.

### **XVI. Coordination of Local Hiring and Services**

Owner shall require its general contractor to use reasonable commercial efforts to maximize its use of Armstrong County labor and services and supplies purchased from Armstrong County businesses in the course of performing under this Agreement, as is further described in the Local Spending and Support Plan attached to this Agreement as Attachment B.

### **XVII. Road Maintenance**

Prior to construction of Improvements, Owner will submit to the County, a list, map or chart of all County roads to be used in the construction process to include transportation of construction equipment as well as solar power generation equipment. Owner will upgrade such roads prior to beginning of the construction of the Improvements using caliche that is at least six (6) inches deep. During construction of the Improvements, Owner agrees to use commercially reasonable efforts to minimize the disruption to County roads caused by the construction process and agrees to repair any damage caused to County roads by Owner, its agents, or contractors during the construction period. After construction, Owner will leave such County roads in a state of equal or better condition than they were in after initial improvement by Owner but prior to commencement of construction excepting normal wear and tear, and will warrant that the roads will be maintained in such a state of equal or better condition for two (2) years after substantial completion of the construction of Improvements. Any upgrade or requirement to upgrade any road used or necessary for Owner's operation will be borne solely by Owner. After completion of construction, the County will be responsible for normal routine maintenance of the County roads.

### **XVIII. Cooperation**

The Parties acknowledge that this tax abatement is entered into in order to enhance the development of electricity projects generated by renewable energy in Armstrong County. In addition the Parties acknowledge that the Reinvestment Zone is located in close proximity to a major ERCOT point of interconnection such that the potential exists for future transmission line development to occur in the Reinvestment Zone to enhance the development of wind generated electricity in the County or surrounding counties. Armstrong Solar II, LLC agrees to reasonably cooperate with the sponsor/owner ("Competing Line Owner") of such other planned transmission lines, which cooperation may include Armstrong Solar II, LLC using commercially reasonable efforts: i) to attempt to agree with the Competing Line Owner on mutually acceptable arrangements to

facilitate the routing, construction and interconnection of transmission lines, including if necessary to exchange portions of respective lease or easement properties to avoid a future line crossing; or (ii) to allow a third party transmission line to cross Armstrong Solar II, LLC leased property (and transmission line, whether planned or constructed) if the Competing Line Owner executes a crossing agreement with Owner containing terms and conditions reasonably acceptable to both Owner and the Competing Line Owner which stipulates, among other things, that: the Competing Line Owner's line will cross Owner's property or transmission line in a manner and location acceptable to Owner based upon plans and specifications and construction requirements and scheduling approved by Owner, which such approval and cooperation shall not unreasonably be withheld.

In Testimony of which, this Agreement has been executed by the County as authorized by the County Commissioners Court and executed by the Owner on the respective dates shown below.

ARMSTRONG COUNTY, TEXAS, by:

\_\_\_\_\_  
County Judge

Armstrong Solar II, LLC

By: \_\_\_\_\_

\_\_\_\_\_

Its \_\_\_\_\_

Date: \_\_\_\_\_

## **Attachment A**

Attached is the Order Re-Designating Reinvestment Zone dated August 24, 2020, (Armstrong County Reinvestment Zone 7), duly passed by the Armstrong County Commissioners Court, and a map depicting the location of Armstrong County Reinvestment Zone 7.

## **Attachment B**

### **Local Spending and Support Plan**

- A. In connection with the construction and operation of the Improvements in Armstrong County (the "Project"), Owner and the Owner's prime contractor(s) ("Prime Contractor(s)") responsible for overseeing construction and/or operation of the Improvements will invest by using commercially reasonable efforts to use services, materials and supplies purchased from Armstrong County individuals and businesses, provided that nothing in this paragraph shall require Owner or the Prime Contractor(s) to use services, materials and supplies provided by Armstrong County residents that are not: (I) of similar quality to those provided by nonresidents; or (ii) made available on terms and/or at prices comparable to those offered by nonresidents. Within ninety (90) days following completion of physical construction of the Project, Owner shall provide the County with a written project summary of the investment showing its compliance with the requirements set forth in this Local Spending and Support Plan.
- B. In no event shall Owner or the Prime Contractor discriminate against Armstrong County residents in employment or in the purchase of goods and services.
- C. In filling employment vacancies in connection with the Project, Owner and the Prime Contractor(s) will use commercially reasonable efforts to use Armstrong County labor, provided that nothing in this paragraph shall require Owner or the Prime Contractor to employ Armstrong County residence who are not: (I) equally or more qualified than nonresident applicants; or (ii) available for employment on terms and/or at salaries comparable to those required by nonresident applicants.
- D. Owner or Prime Contractor shall designate a Coordinator of Local Hiring and Services who will act as a liaison between all contractors and any individual or business residing in Armstrong County who is interested in obtaining information about (1) employment, or (2) commercial services or supplies expected to be purchased by a contractor.
- E. Owner or the Prime Contractor shall hold a job and contracting information session prior to beginning physical construction of the Project at which information will be provided regarding the construction and hiring needs of the Project. Such information also will be provided on a continuing basis through the Coordinator of Local Hiring and Services.