

August 16, 2024

Via U.S. Certified Mail-Return Receipt Requested – Priority Mail USPS

Honorable Judge Adam Ensey  
Armstrong County Judge  
P. O. Box 189  
Claude, TX 79019

Re: Tax Abatement Agreement between Armstrong County, Texas and  
Armstrong Solar I, LLC

and

Tax Abatement Agreement between Armstrong County, Texas and  
Armstrong Solar II, LLC

Dear Judge Ensey:

Enclosed for your review and for the Clerk to record in the Armstrong County Property Records, are the original signed documents for the above-referenced respective Tax Abatement Agreements between **Armstrong County, Texas** and **Armstrong Solar I, LLC** and **Armstrong Solar II, LLC**. Both Agreements were confirmed by you as County Judge, and also confirmed by all but one of the four County precinct commissioners.

Please note that on each Tax Abatement Agreement, the blank date line following your signature fell to the top of page 22. For both Agreements, if you would please be so kind as to insert the applicable date, likely the hearing date of July 8, 2024, it would be greatly appreciated.

We thank you for your review and for having the fully-executed original Agreements recorded by the Armstrong County Clerk's Office. Once recorded, we would appreciate the Clerk's Office returning the original filed documents to us for retention.

Please do not hesitate to contact me with any questions or comments.

Sincerely yours,



**Hoang Quan Vu**

HQV:ksj  
Enclosures

TAX ABATEMENT AGREEMENT  
between  
Armstrong County, Texas and Armstrong Solar I, LLC

STATE OF TEXAS                   §  
COUNTY OF ARMSTRONG       §

This Tax Abatement Agreement (this “**Agreement**”) is made and entered into by and between Armstrong County, Texas (the “**County**”), acting through its duly elected officers and Armstrong Solar, LLC, a Delaware Limited Liability Company, 500 W. 2<sup>nd</sup> Street, Suite 1900, Austin TX 78701-4687, owner of Eligible Property (as defined below) to be located on a portion of the tract of land within the Armstrong County Reinvestment Zone, more specifically described in Attachment A to this Agreement. This Agreement becomes effective upon final signature by both parties (the “**Effective Date**”) and remains in effect until fulfillment of the obligation described in Section IV herein, unless terminated earlier as provided herein.

**Recitals**

WHEREAS, the County has indicated its election to be eligible to participate in tax abatements by resolution;

WHEREAS, the County adopted Tax Abatement Guidelines and Criteria (the “**Guidelines**”) by resolution on or about October 11, 2022;

WHEREAS, the Commissioners Court of Armstrong County, Texas (the “**County Commissioners Court**”) desires to promote economic development within its jurisdiction as authorized by the Property Redevelopment and Tax Abatement Act, as amended (Texas Tax Code §312.001, *et seq.*), and the Guidelines;

WHEREAS, on March 11, 2024, a hearing before the County Commissioners Court was held, such date being at least seven (7) days after the date of publication of the notice of such public hearing in the local newspaper of general circulation in the County and the delivery of written notice to the respective presiding officers of each taxing entity that includes within its boundaries real property that is to be included in the Reinvestment Zone (as defined below);

WHEREAS, the County Commissioners Court, after conducting a hearing, having heard evidence and testimony, and prior to considering this Agreement, found, based on the evidence and testimony presented to it, the Reinvestment Zone met the criteria set forth in Chapter 312 of the Texas Tax Code for the creation of a reinvestment zone as set forth in the Property Redevelopment and Tax Abatement Act, as amended, and the Guidelines, in that it was reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment or to attract investment in the zone that would be

benefit to the property and contribute to the economic development of the County and that the entire tract of land was located entirely within an unincorporated area of the County;

WHEREAS, entering into this Agreement will serve the best interests of the County and its citizens and comply with the Guidelines by:

- A. Enhancing and diversifying the economic and industrial bases of the County;
- B. Contributing to the retention and expansion of primary employment; and
- C. Attracting major investment that will be of benefit to and contribute to the economic development of the County;

WHEREAS, the contemplated use of the Site (as defined below) and the contemplated Improvements (as defined below) as set forth in this Agreement, and the other terms of this Agreement will encourage development of the Reinvestment Zone, are in accordance with the purposes for its creation, and are in compliance with the Guidelines and all applicable laws;

WHEREAS, Owner's (as defined below) use of the Site is expected to favorably influence the economic and employment base of the County;

WHEREAS, the County finds that the Improvements sought are feasible and practicable and will be of benefit to the real property located in the Reinvestment Zone, to the Site and to the County after expiration of this Agreement;

WHEREAS, the County finds that the terms of this Agreement and the proposed Improvements and Eligible Property subject to this Agreement meets the Guidelines;

WHEREAS, a copy of this Agreement has been furnished, in the manner prescribed by law, to the presiding officers of the governing bodies of each of the taxing units in which the property subject to this Agreement is located; and

NOW, THEREFORE, in consideration of these Recitals, premises, the promises, mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the County and Owner agree as follows:

## I. Authorization

This Agreement is authorized and governed by Chapter 312 of the Texas Tax Code, as amended, and by the Guidelines.

## 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 and in no event can the duration of the Abatement period exceed ten (10) years.
- B. **"Base Year"** means the Calendar Year in which the Effective Date occurs.
- C. **"Calendar Year"** means each year beginning January 1 and ending on December 31.
- D. **"Certificate"** means a letter, provided by the Owner to the County, certifying that the Project has achieved Commercial Operations, outlined the Improvements and stipulating the overall Nameplate Capacity of the Project. Upon receipt of the Certificate, the County may inspect the property in accordance with this Agreement to determine that the Improvements are in place as certified. If the Certificate indicates that certain ancillary facilities not required for Commercial Operations are still under construction on the date that the Certificate is delivered, Owner will deliver an amended Certificate to the County within thirty (30) days after all Property construction is completed.
- E. **"Certified Appraised Value"** means the appraised value, for property tax purposes, of the property within the Reinvestment Zone as certified by the Armstrong County Appraisal District (the "Appraisal District") for each taxable year after a final determination of any valuation protest or appeal by Owner pursuant to applicable law.
- F. **"COD"** means the date that the Project commences Commercial Operations.
- G. **"Commercial Operations"** means that the Project has become commercially operational and placed into service for the purpose of generating electricity for sale in one or more commercial markets or for use by Owner or Affiliate.
- H. **"Eligible Property"** means property eligible for Abatement under the Guidelines, 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; and all other real and tangible personal property for which Abatement is permitted by Chapter 312 of the Texas Tax Code and the Guidelines. Taxes on Real Property

may be abated only to the extent the property's value for a given year exceeds its value for the Base Year. Tangible personal property located on the Real Property at any time before the period covered by this Agreement is not eligible for Abatement. Tangible personal property eligible for Abatement shall not include inventory held for resale or noncapitalized supplies.

- I. **"Force Majeure"** includes events not reasonably within the control of the party whose performance is sought to be excused thereby, including the following causes and events (to the extent such causes and events are not reasonably within the control of the party claiming suspension): acts of God and the public enemy; strikes; lockouts or other industrial disturbances; inability to obtain material or equipment for labor due to an event that meets the definition of Force Majeure; wars; blockades; insurrections; riots, epidemics; pandemics; landslides; lightning; earthquakes; fires; storms; floods; high water washouts; inclement weather; arrest and restraint of rulers and people; interruptions by government or court orders; present or future orders of any regulatory body; civil disturbances; explosions; or any other event that is beyond the reasonable control of the party claiming Force Majeure.
- J. **"Improvements"** means Eligible Property meeting the definition for improvements or personal property provided by Chapter 1 of the Texas Tax Code and includes, without limitation, any building, structure or fixture erected on or affixed to the land and personal property located on the Site that is part of the Project. Improvements specifically include the Owner's fixed machinery, equipment and process units that may consist of solar powered panels, foundations, roads, collection systems, communication equipment, substations and switching stations, battery storage, underground and overhead electrical distribution and transmission facilities, transformers, appurtenant electric equipment, anemometer or meteorological towers and data collection facilities to be installed, added, upgraded or used on the Property by or for Owner and located in the County. Improvements does not include 'behind the meter uses' for the solar generated power such as, but not limited to, data centers, hydrogen production facilities, methanol production facilities or similar uses of solar generated electrical power. Any electrical transmission lines subject to abatement shall not include those electrical transmission and distribution lines that transmit power to the items not included in Improvements, such as the above behind the meter uses.
- K. **"Owner"** means Armstrong Solar I, LLC, the entity that owns or leases the Site and that owns the property for which Abatement is being granted, and any permitted assignee or successor in interest of Armstrong Solar I, LLC. An "Affiliate" of an Owner means any entity that directly or indirectly through one or more intermediaries, controls or is controlled by or is under common control with such Owner. For purposes of this definition, "control" of an entity means (i) the ownership, directly or indirectly, of fifty percent (50%) or more of the voting rights in a company or other legal entity or (ii) the right to direct the management or

operation of such entity whether by ownership (directly or indirectly) of securities, by contract or otherwise.

- L. **"Payments in Lieu of Taxes"** or **"PILOTs"** or **"PILTs"** means the payments to be made by Owner to the County described in Section IV(D) of this Agreement.
- M. **"Project"** means the construction and operation of the Improvements on the Site as set forth in this Agreement.
- N. **"Prime Rate"** means interest at the rate periodically announced by the Wall Street Journal as the prime rate or base commercial lending rate, or if the Wall Street Journal shall ever cease to announce a prime or base lending rate, then at the annual rate of interest periodically announced by Citibank, N.A. (or by any other New York money center bank selected by the County) as its prime or base commercial lending rate.
- O. **"Real Property"** means Eligible Property meeting the description for real property provided by Chapter 1 of the Texas Tax Code.
- P. **"Reinvestment Zone"** means the reinvestment zone as that term is defined in Chapter 312 of the Texas Tax Code, created by the County by the resolution described in the Recitals, which was duly passed by the County Commissioners Court, and referred to as the Armstrong County Reinvestment Zone #7, more specifically described in Attachment A to this Agreement. The fact that the designation of the Reinvestment Zone may expire before this Agreement shall not affect the terms and conditions of this Agreement.
- Q. **"Site"** means the portion of the Reinvestment Zone on which Owner makes the Improvements for which the Abatement is granted hereunder.
- R. **"Nameplate Capacity"** means the generating capacity of the Project in megawatts as designated by the manufacturer(s) of the solar energy capacity to be constructed as Improvements hereunder and where appropriate may refer to the total or overall generating capacity.
- S. **"Lender"** means any entity or person providing, directly or indirectly, including an assignee of an initial Lender, with respect to the Improvements or Project any of (a) senior or subordinated construction interim or long-term debt financing or refinancing, whether that financing or refinancing takes the form of private debt, public debt or any other form of debt (including debt financing or refinancing), (b) a leasing transaction, including a sale leaseback, inverted lease or leveraged leasing structure, (c) tax equity financing, (d) any interest rate protection agreements to hedge any of the foregoing obligations, and/or (e) any energy hedge provider. There may be more than one Lender. Owner, at its election, may send written notice to the County with the name and notice information for any Lender.

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

Owner agrees that as a condition to receiving the Abatement set forth in Section IV of this Agreement it must make the following Improvements:

- A. Owner is proposing to construct Improvements on the Site consisting of a solar electric generation facility with a Nameplate Capacity expected to be two hundred fifty (250) megawatts located in the Reinvestment Zone. Owner agrees that its solar power electric generation facility on the Site in the Reinvestment Zone will have a minimum Nameplate Capacity of no less than one hundred twenty five (125) megawatts (the "Minimum Guaranteed Capacity"). If the Nameplate Capacity of Owner's solar power electric generation facility on the Site in the Reinvestment Zone is less than the Minimum Guaranteed Capacity, such circumstances shall not default under this Agreement so long as Owner pays the Annual PILOT Floor Amount specified in Section IV(D) of this Agreement. It is anticipated that, if built to its expected capacity, the solar power electric generation facility will require a capital investment of approximately Three Hundred and One Million Dollars (\$301,000,000.00). The Certified Appraised Value will depend upon annual appraisals by the Appraisal District and may be more or less than the amount stated herein. The size of the solar power electric generation facility may vary, but the Abatement shall be conditioned upon the overall Nameplate Capacity of the Project not being less than the minimum stated above, unless approved in writing by the County.
- B. Improvements also shall include any other property on the Site meeting the definition of "Eligible Property" that is used to produce solar electric power and perform other functions related to the production, storage, distribution and transmission of electric power. The County agrees that the solar panels, transmission lines, substations, battery storage and other related materials and equipment affixed to the land or located on the Site and used for the Project will constitute Improvements under this Agreement.
- C. Owner agrees that the Project shall achieve Commercial Operations on or before December 31, 2028; provided, Owner shall have the unilateral right on written request to the County to receive up to five one-year extensions of the required date to achieve Commercial Operations. On Owner's written election delivered to the County during either of Calendar Years 2026 or 2027, the required date to achieve Commercial Operations shall be extended to December 31, 2029. If Owner requests a second one-year extension, either in Calendar Year 2026, 2027, or 2028, then on Owner's written election delivered to the County accompanied by the payment of a one-time fee of One Hundred Thousand Dollars (\$100,000.00) to the County, the required date to achieve Commercial Operations shall be further extended to December 31, 2029. If Owner requests a third one-year extension in either Calendar Years 2026, 2027, 2028, or 2029, then on

Owner's written election delivered to the County accompanied by the payment of a one-time fee of One Hundred Thousand Dollars (\$100,000.00) to the County, the required dated to achieve Commercial Operations shall be further extended to December 31, 2030. If Owner requests a fourth one-year extension in either of Calendar Years 2026, 2027, 2028, 2029, or 2030 then on Owner's written election delivered to the County accompanied by the payment of a one-time fee of Three Hundred Fifty Thousand Dollars (\$350,000.00) to the County, the required dated to achieve Commercial Operations shall be further extended to December 31, 2031. Finally, if Owner requests a fifth one-year extension in either of Calendar Years 2026, 2027, 2028, 2029, 2030, or 2031 then on Owner's written election delivered to the County accompanied by the payment of a one-time fee of Five Hundred Thousand Dollars (\$500,000.00) to the County, the required dated to achieve Commercial Operations shall be further extended to December 31, 2032.

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

- A. The County and Owner specifically agree and acknowledge that the Owner's on the Site within 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 on the Site 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 real and personal property of Owner located on the Site will be owed and payable by Owner;
  4. All County property taxes on the Certified Appraised Value of Eligible Property shall be abated for the periods and in the amounts as provided for by Paragraph IV(B) below; and
  5. 100% of the Certified Appraised Value of Eligible Property existing on the Site shall be fully taxable after expiration of the Abatement period designated in Paragraph IV(B), including the remainder of the Term.
- 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 County property taxes, whether classified as M&O, I&S, road or other taxes imposed by the County, as follows:



1. Beginning with the Calendar Year after the Calendar Year in which the COD occurs and ending upon the conclusion of ten full Calendar Years, thereafter, the Abatement percentage of value of Eligible Property to be abated each year is 100%.
2. The percentage of County property taxes set forth in Section IV(B)(1) above on the Certified Appraised Value of all Improvements described specifically or generally in the Certificate (and actually in place on the Site) is abated in the respective period designated in Section IV(B)(1) above.
3. The percentage of property taxes set forth in Section IV(B)(1) above on the Certified Appraised Value of any and all otherwise taxable real and personal property owned by Owner and located on the Site is abated in the respective period designated in Section IV(B)(1) above.
4. As of January 1, of the Base Year, the value of the proposed Improvements is zero.
5. The Abatement granted under this Agreement shall commence upon January 1 of the Calendar Year after the Calendar Year in which the COD occurs and shall expire at the end of the tenth (10<sup>th</sup>) Calendar Year thereafter. Owner shall provide the Certificate in writing both to the County and to the Appraisal District within sixty (60) days of the COD. The Certificate shall describe any ancillary facilities not required to Commercial Operations that are still under construction on the date that the Certificate is delivered, and if the Certificate indicates any such facilities exist, Owner shall deliver an amended Certificate to the County and to the Appraisal District within thirty (30) days after the construction of all Improvements is complete. Such ancillary facilities, once completed and if eligible, shall become part of the Improvements eligible for the Abatement under this Agreement. Notwithstanding the preceding, any supplemental Improvements constructed or added to the Site during the Abatement period but after the delivery of the Certificate or an amended Certificate issued by Owner to certify completion of construction shall qualify for Abatement and be subject to the annual PILOT in accordance with the other provisions of this Agreement; provided, Owner shall issue an amended Certificate within thirty (30) days after the completion of the addition of any supplemental Improvements that increase Nameplate Capacity.
6. Owner's failure to issue a Certificate timely or Owner's omission of any required data from a Certificate shall not disallow any otherwise applicable Abatement so long as Owner within thirty (30) days after Notice by County issues a required Certificate or corrected Certificate.
7. If Owner, at its sole election, desires that the ten-year Abatement period commence prior to January 1 of the Calendar Year after the Calendar Year

in which the COD occurs, then Owner at any time prior to January 1 of the first year of such ten-year period may deliver a notice to the County and County Appraisal District stating such desire (such notice being referred to herein as a "Notice of Abatement Commencement"). If delivered by Owner, the Notice of Abatement Commencement shall contain the following statement: "Owner elects for the ten-year Abatement period to begin on January 1, 2029"; the year state in the Notice of Abatement Commencement shall be the first year of the Abatement period, and the Abatement period shall extend for 9 Calendar Years thereafter. Owner shall only be permitted to deliver a Notice of Abatement Commencement if it anticipates achieving COD during the next Calendar Year. Owner shall still be required to deliver the Certificate on or before the date required in the preceding paragraph.

8. Notwithstanding any statement or implication in this Agreement to the contrary, the parties agree that the Abatement granted shall not extend beyond ten (10) Calendar Years.
- C. A portion or 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 no such exemptions shall apply to the Improvements.
- D. As additional consideration for this Abatement, Owner agrees during year 1 and year 2 of the ten (10) Calendar Years the Abatement is in effect to make an annual Payment in Lieu of Taxes to the County in an amount equal to Two thousand one hundred dollars (\$2,100.00) multiplied by the total Nameplate Capacity included in the Certificate or an amended Certificate or corrected Certificate (and located in the Reinvestment Zone). Notwithstanding the foregoing, the amount of each of the annual Payment in Lieu of Taxes in year 1 and year 2 of the Abatement shall, in no event, be less than \$262,500. Based on the minimum nameplate capacity of 125MW00. The first such payment shall be due and payable on December 1, 2029, of the first Calendar Year of the Abatement, and delinquent and past due if not paid on or before December 31 of the same Calendar Year, with the remaining nine (9) payments due and payable annually on or before December 1 thereafter and delinquent and past due if not paid on or before the immediately following December 31. By way of illustration, if Year 1 of the Abatement period is 2028, then the PILOT owed for 2028 shall be due and payable on December 1, 2028, and delinquent and past due if not paid on or before December 31, 2028. There shall be a total of ten (10) PILOTs under this Agreement. Past due amounts shall be subject to any and all statutory interest and penalties applicable to the payment and collection of taxes as provided in the Texas Tax Code. Force Majeure shall not apply to any Payment in Lieu of Taxes or taxes owed under the terms of this Agreement. The payment in years 3 through 8 of the Abatement shall be Two thousand dollars multiplied by the total Nameplate Capacity included in the Certificate or an amended Certificate or corrected Certificate (and located in the

Reinvestment Zone). Notwithstanding the foregoing, the amount of years 3 through 8 annual Payment in Lieu of Taxes shall, in no event, be less than \$250,000. Based on the minimum nameplate capacity the payment in year 9 of the Abatement shall be One thousand six hundred dollars multiplied by the total Nameplate Capacity included in the Certificate or an amended Certificate or corrected Certificate (and located in the Reinvestment Zone). Notwithstanding the foregoing, the amount of the year 9 annual Payment in Lieu of Taxes shall, in no event, be less than \$200,000. The payment in year 10 of the Abatement shall be One thousand two hundred dollars multiplied by the total Nameplate Capacity included in the Certificate or an amended Certificate or corrected Certificate (and located in the Reinvestment Zone). Notwithstanding the foregoing, the amount of the year 10 annual Payment in Lieu of Taxes shall, in no event, be less than \$150,000.

- E. Owner agrees that the Improvements described in Section III, once constructed, will remain in place until at least twenty (20) Calendar Years after COD ("Term"); provided that nothing herein prevents Owner from replacing equipment or fixtures comprising the Improvements prior to that date, as long as the Certified Appraised Value of the Improvements for the first year after being place in service is not less than the Certified Appraised Value of the replaced Improvements for the tax year during which they are replaced. In the event that Owner permanently removes rather than replaces Improvements (comprising on the aggregate not more than 25% of the Certified Appraised Value of all Improvements for the tax year in which removed), Owner's removal shall not be deemed a default under this Agreement if Owner pays to the County as liquidated damages for such removal from the Abatement in this Agreement, within thirty (30) days after demand, or within thirty days after the final resolution of Owner's exercise of any rights to dispute such demand, none of which are hereby waived, all taxes for such removed Improvements (which otherwise would have been paid to the County without benefit of a tax Abatement), less any PILOTs paid by Owner to the County with respect to such Improvements, for the five (5) tax years preceding the Calendar Year in which such Improvements are removed, with interest accrued at the Prime Rate as of January 1 of each year but without penalty. IN THE EVENT OF A BREACH OF THIS SECTION IV(E), THE SOLE REMEDY OF THE COUNTY, AND OWNER'S SOLE LIABILITY, WILL BE FOR OWNER TO PAY TO THE COUNTY THE FULL AMOUNT OF ACTUAL TAXES ABATED AT ANY TIME UNDER THIS AGREEMENT ON THE REMOVED IMPROVEMENTS WITH INTEREST, BUT LESS ANY TAX PAYMENTS OR PAYMENT IN LIEU OF TAXES REMITTED TO THE COUNTY WITH RESPECT TO THE REMOVED IMPROVEMENTS. IN THE EVENT OF A BREACH OF THIS SECTION 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 (i) Owner, its successors and/or assigns, will have a taxable interest with respect to Improvements to be placed on the Site; (ii) construction of the proposed Improvements described in Section III will be performed by the Owner, its successors and/or assigns and/or their contractors or subcontractors, (iii) Owner's and its successors' and assigns' use of the property in the Reinvestment Zone will be limited to use described in this Agreement during the Term; (iv) all representations made in this Agreement and in the Application for Abatement, if any, are true and correct in all material respects to the best of Owner's knowledge, (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, (vi) the Project will not be constructed without first obtaining all necessary local, state and federal environmental and construction permits, and Owner will abide by all conditions of the permits and all laws, ordinances, rules and regulations governing the construction and operation of the Project throughout its economic life; and (vii) the planned use of the property within the Project will not constitute a hazard to public health or safety throughout the economic life of the Project, except that uses that are customary and industry standard for a utility-scale solar energy project using solar panels shall in no event be deemed to constitute such a hazard.
- B. The County represents that (i) the County has formally elected to be eligible to grant property tax abatements under Chapter 312 of the Tax Code; (ii) the Reinvestment Zone and this Agreement have been created in accordance with Chapter 312 of the Texas Tax Code and the Guidelines as both exist on the Effective Date of this Agreement; (iii) as applicable, (a) no interest in the Improvements or the land on which they are located is held or subleased by a member of the County Commissioners Court or (b) any member of the County Commissioners Court that has a potential economic or financial interest in the Improvements or the land on which the Improvements are located as abstained from any vote or decision regarding this Agreement; (iv) the property within the Reinvestment Zone is located within the legal boundaries of the County and (v) 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.
- C. Owner represents and agrees that if it builds the Improvements and if the COD occurs, the Project will (i) add at least \$50,000,000. Based on the minimum nameplate capacity of 125 MW previously listed, to the tax roll of Eligible Property, (ii) for every year during the Term, create two (2) permanent, full-time jobs, consisting of full-time employees of Owner, its contractors or their respective Affiliates who perform duties primarily related to the operation of the Project in the County, and without regard to whether such employees are newly hired or existing employees who have been transferred from other duties to operate the Project (iii) make a commercially reasonable effort to ensure the Project leads to a positive

net economic benefit to the County of at least \$500,000, based on the minimum nameplate capacity previously listed, over the life of this Agreement, computed to include (but not limited to) new sustaining payroll and/or capital improvement, and (iv) not solely or primarily have the effect of transferring employment from one part of the County to another. For purposes of this Agreement, permanent, full-time jobs shall mean any position in which an employee works 1820 hours or more during the year.

#### **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 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, on or before March 31 of each Calendar Year, starting with the first Calendar Year beginning after Owner delivers the Certificate, certify annually to the County its compliance with this Agreement by providing written testament to the same to the County Judge using the form attached hereto as Attachment C.

#### **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 this Agreement upon mutual agreement with Owner. If the Owner believes that such termination was improper, Owner may file suit in the proper court challenging such termination. In the event of default, the County may pursue the remedies provided for in Section VII(C) below or the preceding Section 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. Notwithstanding any other provisions of this Agreement to the contrary, in the event a party is rendered unable, wholly or in part by Force Majeure to carry out its obligations under this Agreement (other than any obligation to make payment of any amount when due and payable hereunder), the obligation of such party, so far as it is affected by such Force Majeure, shall be suspended during the continuance of any condition or event of Force Majeure, but for no longer period, and such condition or event shall so far as possible be remedied with all reasonable dispatch. The party prevented to hindered from performing shall give prompt (but in no event later than twenty (20) business days after it becomes aware of the occurrence of such event) notice and reasonably full particulars of such event to the other party and shall take

all reasonable actions within its power to remove the basis for nonperformance (including securing alternative supply sources that in the exercise of reasonable discretion are suitable replacements in quality and price) and after doing so shall resume performance as soon as reasonably possible. The settlement of strikes or lockouts or resolution of differences with workers shall be entirely within the discretion of the affected party, and the above requirements that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts or differences by acceding to the demands of the opposing party in such strike, lockout or difference when such course is inadvisable in the reasonably exercised discretion of the affected party.

- B. The County shall notify Owner and any Lender of record in the Armstrong County Property Records 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 sixty (60) days from the date of such notice to cure any default, except that where the default is incapable of being cured within sixty (60) 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. Any lender of which the County has notice in the Armstrong County Property Records, 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, subject to the above provisions regarding notice and right to cure, the County shall be entitled to cancel the Agreement and recapture property tax revenue lost as a result of this Agreement, less any PILOTs paid by Owner to the County, with interest accrued at the Prime Rate as of January 1 of each year and no penalty. In the event of any other default by Owner, subject to the above provisions regarding notice and right to cure, the County shall be entitled to cancel this Agreement and recapture property tax revenue lost as a result of this Agreement, less any PILOTs paid by Owner to the County, for the five (5) tax years preceding the Calendar Year in which this Agreement is cancelled, with interest accrued at the Prime Rate as of January 1 of each year and no penalty.
- D. **LIMITATION OF LIABILITY: CANCELLATION OF THE AGREEMENT (RESULTING IN A FORFEITURE OF ANY RIGHT TO ABATEMENT HEREUNDER BEYOND THE CANCELLATION DATE), RECAPTURE OF PROPERTY TAXES ABATED ONLY AS PROVIDED FOR AND ONLY UNDER THE CIRCUMSTANCES DEFINED IN SECTION VII(C) OF THIS AGREEMENT, AND/OR RECOVERY OF THE AMOUNTS PROVIDED FOR IN SECTION IV(E) ONLY AS PROVIDED FOR AND ONLY UNDER THE CIRCUMSTANCES DEFINED IN SECTIONS IV(E) ONLY AS PROVIDED FOR AND ONLY UNDER THE CIRCUMSTANCES DEFINED IN SECTION IV(E), ALONG WITH ANY**

REASONABLY INCURRED COSTS AND FEES, SHALL BE THE COUNTY'S SOLE REMEDY, AND OWNER'S SOLE LIABILITY, IN THE EVENT OWNER FAILS TO MAKE THE SPECIFIED IMPROVEMENTS OR TAKE OTHER ACTION REQUIRED BY THIS AGREEMENT, INCLUDING ANY FAILURE TO PAY AMOUNTS OWED UNDER THIS AGREEMENT. OWNER AND COUNTY AGREE THAT THE LIMITATIONS CONTAINED IN THIS PARAGRAPH ARE REASONABLE AND REFLECT THE BARGAINED FOR RISK ALLOCATION AGREED TO BY THE PARTIES. IN THE EVENT OF A BREACH OF THIS AGREEMENT, ANY AMOUNTS 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 SIXTY DAYS OF NOTICE OR OTHERWISE CURE THE DEFAULT AS PROVIDED BY THE AGREEMENT SHALL RESULT IN TERMINATION OF THE TAX ABATEMENT AGREEMENT AND MAY INCLUDE RECAPTURE OF TAXES ABATED PURSUANT TO THAT 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**

- A. The rights and obligations of Owner may be assigned in their entirety to an Affiliate without County's prior consent. Owner shall provide notice to the County of any assignment to an Affiliate. Owner's assignment of the Agreement to an Affiliate shall be final only after the execution of a formal assignment document between Owner and the assignee and the delivery of notice of the execution of such assignment agreement to the County and recorded in the real property records of the County.
- B. The rights and responsibilities of Owner hereunder may be assigned in part to an Affiliate without County's prior consent provided that the Affiliate is added as a party to this Agreement and the Owner and Affiliate are jointly and severally liable hereunder and shall record such assignment in the real property record of the County. Owner's partial assignment of the Agreement to an Affiliate shall be final only after the execution of a formal assignment document between Owner and the

assignee, the delivery of notice of the execution of such assignment agreement to the County and recording of such in the real property records of County.

- C. The rights and responsibilities of Owner hereunder may be assigned in their entirety to a party other than an Affiliate, but only after obtaining the County's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment by Owner to a party other than an Affiliate without first obtaining the written consent of the County shall be a default under this Agreement subject to the notice provisions, cure provisions, remedies and other terms and conditions of Article VII above. Owner shall give the County no less than forty-five (45) days' written notice of any intended assignment to a party other than an Affiliate, and the County shall respond with its consent or refusal within thirty-five (35) days after receipt of Owner's notice of assignment. If the County responds to Owner's notice of assignment with a refusal, the parties agree to work together expeditiously and in good faith to resolve the County's objections to the assignment. Owner's assignment of the Agreement shall be final only after the execution of a formal assignment document between Owner and the assignee, the delivery of notice of the execution of such assignment agreement to the County and recording in the real property records of the County. Neither Owner's notice of an intended assignment nor the County's formal consent to an intended assignment shall constitute an assignment of the Agreement, and Owner's request for a consent to assignment shall not obligate Owner to assign the Agreement. Owner's assignment of the Agreement to a party other than an Affiliate shall be final only after the execution of a formal assignment document between Owner and the assignee, the delivery of notice of the execution of such assignment agreement to the County and recording in the real property records of the County.
- D. No assignment under Paragraph IX(A), IX (B) or IX(C) shall be allowed if (a) the County has declared a default hereunder that has not been cured within all applicable notice and cure periods, or (b) the assignee is delinquent in the payment of ad valorem taxes owed to the County or any other taxing jurisdiction in the County. Consent to a transfer or assignment requested under Paragraph IX(C) will be subject to the County approving the financial capacity of the transferee/assignee and subject to all conditions and obligations in this Agreement being assumed and guaranteed by the transferee/assignee. The County shall not reasonably withhold consent to a transfer or an assignment under Paragraph IX (C). The transfer or assignment shall be presumed to be reasonable where the proposed transferee/assignee demonstrates to the County its financial capacity to meet the terms of this Agreement, agrees to be bound by all conditions and obligations stated herein and is not in default under any other agreement with the County.
- E. Upon any assignment and assumption under Paragraph IX(A), IX(B) and IX(C), Owner may, without obtaining the County's consent, mortgage, pledge or otherwise encumber its interest in this Agreement or the Project to a Lender for the purpose of financing the operations of the Project, constructing the Project or



acquiring additional equipment following any initial phase of construction, or for other business purposes. Owner's encumbering its interest in this Agreement may include an assignment of Owner's rights and obligations under this Agreement for purposes of granting a security interest in this Agreement. In the event Owner takes any of the actions permitted by this subparagraph, it shall provide written notice of such action to the County with such notice to include the name and notice information of the Lender and Owner shall record such information in the real property records of the County. County shall be required to provide a copy to such Lender of record in the real property records of the County of all Notices delivered to Owner. If Owner does not provide to the County the name and contact information of a Lender to the County in writing and record the information in the real property records of the County, then such Lender shall not have the notice rights of a Lender under this Agreement.

### **X. Notice**

All notices, demands and other communications of any type (collectively, "Notices" and each individually, a "Notice") 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, or by facsimile transmission. 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; facsimile Notice shall be effective upon receipt by the sender of an electronic confirmation. 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 two (2) methods of delivery and consistent with Section VII(E). All Notices shall be mailed or delivered to the following addresses:

To the Owner:

Armstrong Solar I, LLC  
500 W. 2nd St.  
Suite 1900  
Austin, TX 78701-4687  
Facsimile None  
Telephone 512.649.8409

To the County:

Armstrong County Judge  
Armstrong County Courthouse  
P.O. Box 189  
101 Trice Street  
Claude TX 79019

Facsimile 806-553-5980  
Telephone 806-553-2860

With a copy to:  
Scott Sherwood  
Sherwood & Sherwood  
P.O. Box 947  
123 W. 3<sup>rd</sup> Street  
Panhandle, TX. 79068  
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 or otherwise unenforceable, 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, illegal, factually insufficient or unconstitutional or otherwise unenforceable section(s) or other part(s). 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. This Agreement, in its entirety, shall be performable in Armstrong County, Texas. As part of the consideration for entering into this Agreement, both the County and Owner agree that any litigation to construe or enforce the terms or conditions of this Agreement shall be brought solely in the state or federal district courts having jurisdiction in Armstrong County, 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 Guidelines. To the extent this Agreement modifies any requirement or procedures set forth in the Guidelines, those Guidelines are deemed amended for purposes of this Agreement only, and in the event of any conflict between this Agreement and the Guidelines, the terms of this Agreement shall control.

#### **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**

- A. Owner shall use reasonable commercial efforts to maximize its use of County labor and services and supplies purchased from 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.
- B. For every year during the Term, Owner, its contractors and their respective Affiliates will collectively employ three (3) full-time Project employees in the County.
- C. Upon request by Owner, County shall provide a written statement certifying that Owner is then in compliance (or has fully complied) with the Local Spending and Support Plan; if county cannot make such statement, County will provide an explanation to Owner of its determination.

#### **XVII. Road Maintenance**

During construction of the Improvements, Owner agrees to use commercially reasonable efforts to minimize the disruption to County roads (for the purpose of this paragraph, the term "roads" includes, without limitation, all adjacent ditches and rights-of-way), culverts and bridges and agrees to repair any damage beyond ordinary wear and tear caused to County roads, culverts or bridges by Owner or its agents. After construction, Owner will leave such County roads, culverts and bridges in a state of equal or better condition than they were prior to construction, excepting normal wear and tear. Any upgrade or requirement to upgrade any road, culvert or bridge used or necessary for Owner's operations will be borne solely by Owner. After construction, the County will only be responsible for the normal routine maintenance of the County roads, culverts and bridges, and Owner will be responsible for any extraordinary repair or maintenance of County roads, culverts and/or bridges that becomes necessary or appropriate due to the use of such roads, culverts and bridges by Owner or its agents. All repairs, maintenance,

replacements and upgrades will be made in accordance with generally applicable County standards and specifications, and Owner will only use such materials in repairing, maintaining, replacing and upgrading County roads, culverts and bridges as are acceptable to the County, in the County's sole discretion, but not to reasonably exceed the quality and type of materials customarily used in the Texas panhandle area for similar applications. This Section XVII shall become void and shall have no further effect upon the execution of a separate Agreement for Road Use, Repair and Improvement by and between Owner and County relating to the Project.

#### **XVIII. Site Maintenance**

Owner shall maintain the Site free from accumulation of objectionable, unsightly or unsanitary matter, debris, waste material, rubbish, tumbleweeds and noxious weeds.

#### **XIX. Indemnity**

Owner agrees to indemnify, defend and hold the County, each of its elected officials, all of its servants, agents and employees, any person or legal entity designated by the County to perform any function required under the Guidelines, under the tax abatement application or by the terms of this Agreement, and the Appraisal District, its officers, directors, servants, agents and employees (collectively, the "**Indemnitees**") harmless from any and all claims, demands, liabilities, losses, costs, actions, causes of action, and attorneys' fees incurred by or alleged by a person other than Owner or its Affiliates against the Indemnitees ("**Liability**") arising from or in any way relating to the tax abatement application, the terms, covenants, and conditions contained in this Agreement, and the action contemplated by this Agreement. The indemnity provided for in this paragraph shall not apply to any Liability resulting from the gross negligence or willful action of the Indemnitees. This provision does not waive any governmental immunity available to the Indemnitees under Texas law and does not waive any defense of a party under Texas law. The provisions of this paragraph are solely for the benefit of the Indemnitees and are not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

#### **XX. Reimbursement of Expenses**

Within thirty (30) days of the date of receipt of an invoice, Owner agrees to reimburse the County for or pay directly to the County's attorneys, as applicable, the reasonable and necessary attorney's fees and expenses incurred, directly or indirectly, by the County in connection with the negotiation and formalization of the Abatement and this Agreement in an amount not to exceed Fifteen Thousand (\$15,000.00). This is a one-time fee that also addresses any future amendments.

#### **XXI. Estoppel Certificates**

Each party on written request from the other party shall provide an estoppel certificate that shall certify, as of the date of the certificate: (i) that this Agreement is in full force and

effect without default if such is the case, (ii) the remaining term of this Agreement, and (iii) such other matters as may be agreed upon by the parties, a party's consent to inclusion of other matter not be unreasonably withheld. A party shall provide the estoppel certificate or an explanation of why the party is not willing to provide the certificate within thirty (30) days of receiving a request.

## **XXII. Employment of Undocumented Workers**

During the term of this Agreement, Owner agrees not to knowingly employ any undocumented workers as defined in Section 2264.001 of the Texas Government Code. If Owner is convicted after exhaustion of all rights of appeal of a violation under 8 U.S.C. §1324a(f), Owner shall repay the amount of the abatements and any other funds received by Owner from the County less any tax payment or payments in lieu of taxes remitted to the County with respect to the Improvements as of the date of such violation, not later than one hundred and twenty (120) days after the date Owner is notified by the County of a violation of this section, plus interest at the Prime Rate. The payment of interest shall be as if it had been accruing from the dates the abatements were granted to Owner until the date the amount due is repaid to the County.

## **XXIII. No Boycott**

In accordance with Section 2271.002 of the Texas Government Code, Owner verifies that it does not boycott Israel and will not boycott Israel during the term of this Agreement.

## **XXIV. Not a Listed Company**

In accordance with Section 2252.152 of the Texas Government Code, the parties covenant and agree that Owner is not on a list maintained by the State Comptroller's office prepared and maintained pursuant to Section 806.051, 807.051 or 2252.153 of the Texas Government Code.

## **XXV. Safety Training**

At least once every year during the Term, Owner, its contractors or their respective Affiliates shall provide safety training related to the Project for County's employees and volunteers, including, but not limited to, emergency management services and volunteer fire department personnel at Owner's sole cost and expense. At the beginning of construction, Owner shall provide County and County emergency responders a map of the Project locations indicating how particular areas are referred to by Owner or its contractors.


## **XXVII. Cooperation**

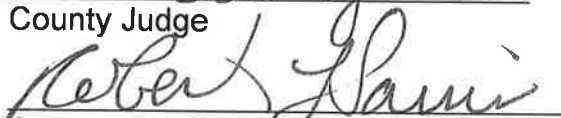
The Parties acknowledge that this Abatement is entered into to enhance the development of electricity projects generated by renewable energy in the County, benefitting the

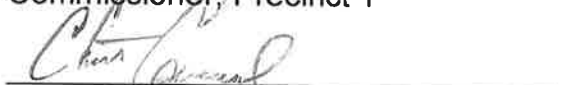
County, its citizens, and landowners. In addition, the Parties acknowledge that the Reinvestment Zone is in proximity to a major ERCOT point of interconnection such that the potential exists for future transmission line development to occur in the Reinvestment Zone to enhance the development of renewable generated electricity in the County or surrounding counties. Armstrong Solar I, LLC agrees to reasonably cooperate with the sponsor/owner ("Competing Line Owner") of such other planned transmission lines, which cooperation may include Armstrong Solar I, 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 I, 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, construction requirements, and scheduling approved by Owner, which such approval and cooperation shall not unreasonably be withheld.

ATTEST/SEAL:


ARMSTRONG COUNTY, TEXAS, by:

  
County Judge

  
Commissioner, Precinct 1

  
Commissioner, Precinct 2

  
Commissioner, Precinct 3

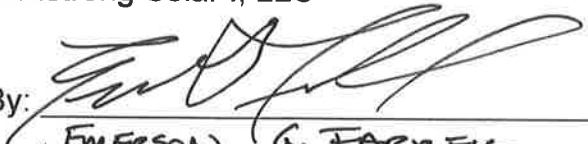
  
Commissioner, Precinct 4

Attest:

  
Tawnee Blodgett, County Clerk

Dated: July 27<sup>th</sup> 2024

Armstrong Solar I, LLC

By:   
EMERSON G. FARREN  
, its CEO

Dated: 7.12.2024



