

**MINUTES
REDEVELOPMENT AGENCY
FEBRUARY 02, 2022**

A session of the Redevelopment Agency met at the Historic County Courthouse, 1 South Main Street in Brigham City, Utah at 5:20 p.m. on **FEBRUARY 02, 2022**. The following members were present:

Stan Summers	Chairman
Jeff Scott	Member
Jeff Hadfield	Member
Marla Young	Clerk

The meeting was called to order by Chairman Summers.

APPROVAL OF MINUTES

THE MINUTES OF THE REGULAR MEETING OF THE REDEVELOPMENT AGENCY ON DECEMBER 15, 2021 AND JANUARY 19, 2022 WERE APPROVED ON A MOTION BY MEMBER SCOTT, SECONDED BY MEMBER HADFIELD AND UNANIMOUSLY CARRIED

ATTACHMENT NO. 1 - AGENDA

Appoint 2022 RDA Chairman - Commissioners

MOTION: Member Hadfield made a motion to appoint Member Scott as the RDA Chairman for 2022. The motion was seconded by Member Scott and unanimously carried.

Chairman Scott conducted the remainder of the meeting.

Resolution #22-06 Approving the Amended Rocket Solar Plan - Stuart Clason

Megan Whitely on behalf of DE Shaw Renewable Investments gave an update on the Rocket Solar and Steel Solar projects. She explained they are adding in additional project areas within the first plans and updating the budgets.

Stuart Clason of UAC explained the order and process of approving the resolutions.

MOTION: Member Hadfield made a motion to approve RDA Resolution #22-06 approving the Amended Rocket Solar Plan. The motion was seconded by Member Summers and unanimously carried.

ATTACHMENT NO. 2 - RDA RESOLUTION #22-06

Resolution #22-02 Approving the Amended Steel Solar Plan - Stuart Clason

MOTION: Member Summers made a motion to approve RDA Resolution #22-02 approving the Amended Steel Solar Plan. The motion was seconded by Member Hadfield and unanimously carried.

ATTACHMENT NO. 3 - RDA RESOLUTION #22-02

Resolution #22-08 Approving the Amended Rocket Solar Budget - Stuart Clason

MOTION: Member Hadfield made a motion to approve RDA Resolution #22-08 approving the Amended Rocket Solar Budget. The motion was seconded by Member Summers and unanimously carried.

ATTACHMENT NO. 4 - RDA RESOLUTION #22-08

Resolution #22-03 Approving the Amended Steel Solar Budget - Stuart Clason

MOTION: Member Summers made a motion to approve RDA Resolution #22-03 approving the Amended Steel Solar Budget. The motion was seconded by Member Hadfield and unanimously carried.

ATTACHMENT NO. 5 - RDA RESOLUTION #22-03

Resolution #22-07 Approving the Amended Participation Agreement for the Rocket Solar CRA - Stuart Clason

MOTION: Member Hadfield made a motion to approve RDA Resolution #22-07 approving the Amended Participation Agreement for the Rocket Solar CRA. The motion was seconded by Member Summers and unanimously carried.

ATTACHMENT NO. 6 - RDA RESOLUTION #22-07

Resolution #22-05 Approving the Amended Participation Agreement for the Steel Solar CRA - Stuart Clason

MOTION: Member Summers made a motion to approve RDA Resolution #22-05 approving the Amended Participation Agreement for the Steel Solar CRA. The motion was seconded by Member Hadfield and unanimously carried.

ATTACHMENT NO. 7 - RDA RESOLUTION #22-05

Resolution #22-09 Approving Participation Agreement for Rocket Solar II within the Rocket Solar CRA - Stuart Clason

MOTION: Member Hadfield made a motion to approve RDA Resolution #22-09 approving the Participation Agreement for Rocket Solar II within the Rocket Solar CRA. The motion was seconded by Member Summers and unanimously carried.

ATTACHMENT NO. 8 - RDA RESOLUTION #22-09

Resolution #22-04 Approving Participation Agreement for Steel Solar II within the Steel Solar CRA - Stuart Clason

MOTION: Member Summers made a motion to approve RDA Resolution #22-04 approving the Participation Agreement for Steel Solar II within the Steel Solar CRA. The motion was seconded by Member Hadfield and unanimously carried.

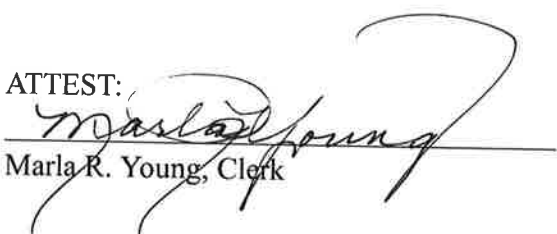
ATTACHMENT NO. 9 - RDA RESOLUTION #22-04

ADJOURNMENT

A motion was made by Member Hadfield to adjourn. Member Summers seconded the motion, and the meeting adjourned at 5:29 p.m.

ADOPTED AND APPROVED in regular RDA session this 16th day of February 2022.

ATTEST:


Marla R. Young, Clerk


Jeff Scott, Chairman

RDA
RESOLUTION NO. 12-06

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY
ADOPTING AN AMENDMENT TO THE OFFICIAL PLAN FOR THE ROCKET SOLAR
COMMUNITY REINVESTMENT PROJECT AREA.**

WHEREAS, the Redevelopment Agency of Box Elder County (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code Ann. 1953, as amended (the "Act"); and

WHEREAS, the Agency has adopted by resolution the Rocket Solar Community Reinvestment Project Area Plan (the "Plan") for the Rocket Solar Community Reinvestment Project Area (the "Project Area"),

WHEREAS, the Agency, by Resolution, has authorized the preparation of an amendment to the Plan (the "Amendment") and has made the draft Amendment available to the public at the Agency's offices during normal business hours; and

WHEREAS, the Agency provided notice of the public hearing in strict compliance with the Act; and

WHEREAS, the Agency has held a public hearing on the draft Amendment and at that hearing (a) allowed public comment on the draft Amendment and whether the draft Amendment should be revised, approved or rejected, and (b) received all written and heard all oral objections to the draft Amendment; and

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the draft Amendment, and whether to revise, approve or reject the draft Amendment;

WHEREAS, less than one year has passed since the date of the public hearing.

**NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE
REDEVELOPMENT AGENCY OF BOX ELDER COUNTY:**

Section 1. Adoption of Amendment to Project Area Plan. It has become necessary and desirable to adopt the draft Amendment as an official amendment to the Project Area Plan. The draft Amendment, in the form attached hereto as **Exhibit B**, and together with any changes to the draft Amendment as may be indicated in the minutes of this meeting (if any), is hereby designated and adopted as a part of the official plan for the Project Area. The Agency shall submit the Amendment, together with a copy of this Resolution, to the County Commission requesting that the Amendment be adopted by ordinance of the legislative body of County in accordance with the provisions of the Act. All comments and objections to the draft Amendment (if any) have been considered and are, unless otherwise provided in the minutes of this meeting (if at all), passed upon.

Section 2. Legal Description of the Project Area Boundaries. The legal description of the boundaries of the Project Area, as amended by the Amendment, covered by the Project Area Plan, as amended, is attached hereto and incorporated herein as **Exhibit A**. A map of the Project Area is attached and incorporated herein as a part **Exhibit B**.

Section 3. Agency's Purposes and Intent. The Agency's purposes and intent with respect to the Project Area are to accomplish the following:

- A. Encourage and accomplish appropriate private development and community reinvestment activities within the Project Area.
- B. Provide for redevelopment infrastructure improvements within or to serve the Project Area.
- C. Provide for the strengthening of the tax base and economic health of the community.

Section 4. Project Area Plan Incorporated by Reference. The Amendment, together with supporting documents, in the form attached as **Exhibit B**, and together with any changes to the draft Amendment as may be indicated in the minutes of this meeting (if any), is hereby incorporated herein by reference, and made a part of this Resolution. Copies of the Amendment shall be filed and maintained in the office of the Agency and the County Clerk for public inspection.

Section 5. Agency Board Findings. The Agency Board hereby determines and finds that the Amendment:

- A. Serves a public purpose by, among other things, encouraging and accomplishing appropriate community reinvestment activities within the Project Area;
- B. Produces a public benefit in the form of, among other things, increased development activity within the boundaries of the Agency, including in particular within the Project Area, that is desirable and will enhance the tax base of all taxing entities within the Project Area, as demonstrated by the analysis provided in the Project Area Plan;
- C. Is economically sound and feasible; in that the revenue needed for the implementation of the Project Area Plan will come from incremental property taxes generated by new private development within the Project Area, all as further shown and supported by the analysis contained in the Project Area Plan;
- D. Conforms to the County's general plan in that, among other things, the Project Area Plan provides that all development in the Project Area is to be in accordance with the County's zoning ordinances and requirements, and the development activities contemplated by the Project Area Plan are in harmony with the County's general plan; and
- E. Promotes the public peace, health, safety and welfare of the County.

Section 6. Effective Date. This Resolution shall take effect immediately upon adoption, and pursuant to the provisions of the Act, the Amendment shall become effective upon adoption by Ordinance of the legislative body of the County.

IN WITNESS WHEREOF, the Governing Board of the Redevelopment Agency of Box Elder County has approved, passed and adopted this Resolution this February 2, 2022.





Agency Chair

Attest:



Secretary

EXHIBIT A: LEGAL DESCRIPTION

Parcel 1

EAST HALF OF SECTION 6, TOWNSHIP 10 NORTH, RANGE 5 WEST, SALT LAKE BASE AND MERIDIAN, LESS WEST 400 FEET, ALSO LESS BEGINNING AT A POINT 400 FEET EAST OF THE NORTHWEST CORNER OF NE/4 OF SAID SECTION, EAST 25 RODS, SOUTH 40.5 RODS, WEST 25 RODS, NORTH 40.5 RODS TO BEGINNING.

Tax Parcel No. 04-005-0012

Parcel 2

LOTS 4,5,6,& 7, E/2 OF W/2 OF SECTION 6, TOWNSHIP 10 NORTH, RANGE 5 WEST, SALT LAKE BASE AND MERIDIAN.

Tax Parcel No. 04-005-0014

Parcel 3

ALL OF SECTION 31, TOWNSHIP 11 NORTH, RANGE 5 WEST, SALT LAKE BASE AND MERIDIAN, LESS COUNTY ROAD.

LESS: [05-004-0084] BEGINNING AT A POINT 113 RODS NORTH OF THE SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 11 NORTH, RANGE 5 WEST, SALT LAKE BASE AND MERIDIAN, RUNNING THENCE NORTH 34.75 RODS, THENCE WEST 320 RODS, THENCE SOUTH 34.75 RODS TO A POINT WEST OF BEGINNING, THENCE EAST 320 RODS TO BEGINNING.

Tax Parcel No. 05-004-0083

Parcel 4

SECTION 32, TOWNSHIP 11 NORTH, RANGE 5 WEST, SALT LAKE BASE AND MERIDIAN LYING WEST OF CPRR R/W.

Tax Parcel No. 05-004-0052

Parcel 5

BEGINNING AT A POINT 113 RODS NORTH OF THE SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 11 NORTH, RANGE 5 WEST, SALT LAKE BASE AND MERIDIAN, RUNNING THENCE NORTH 34.75 RODS, THENCE WEST 320 RODS, THENCE SOUTH 34.75 RODS TO A POINT WEST OF BEGINNING, THENCE EAST 320 RODS TO BEGINNING.

Tax Parcel No. 05-004-0084

Parcel 6

ALL OF SECTION 1, TOWNSHIP 10 NORTH, RANGE 6 WEST, SALT LAKE BASE AND MERIDIAN, LESS AND EXCEPTING THE COUNTY ROAD AND THE PROPERTY SOLD TO THE U.S.A.

Tax Parcel No. 04-006-0002

Parcel 7

BEGINNING AT POINT SOUTH 136.6 FEET & WEST 3512.0 FEET FROM THE SOUTHEAST CORNER OF SECTION 33, TOWNSHIP 11 NORTH, RANGE 5 WEST, SLM, WHICH IS ON NORTH FENCE OF HWY R/W, THENCE ALONG R/W FENCE BY WAY OF 2 COURSES TO-WIT: S77°50'W 111.1 FEET, S87°13'W 1705.1 FEET M/L TO WESTERN BOUNDARY OF SAID SECTION 33, N01°00'W 3089.6 FEET M/L ALONG THE WESTERN BOUNDARY SAID SECTION TO R/W/L OF CPRR, S32°01'E 3519.5 FEET M/L ALONG SAID R/W LINE TO THE POINT OF BEGINNING.

Tax Parcel No. 05-004-0055

Gen-Tie Parcels

COLLECTOR LINE EAST EASEMENT

A 100.00 FOOT WIDE POWERLINE EASEMENT BEING 50.00 FEET RIGHT AND 50.00 FEET LEFT OF THE FOLLOWING DESCRIBED ALIGNMENT:

A PART OF THE NORTHEAST QUARTER OF SECTION 32 AND A PART OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 11 NORTH, RANGE 5 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT LOCATED 2967.57 FEET NORTH 00°07'20" EAST AND 380.03 FEET NORTH 90°00'00" WEST AND 250.00 FEET NORTH 56°49'54" EAST AND 49.43 FEET NORTH 33°10'06" WEST FROM THE SOUTHEAST CORNER OF SAID SECTION 32;

RUNNING THENCE NORTH 58°46'58" EAST 539.44 FEET TO THE TERMINUS OF THIS EASEMENT.

Tax Parcel No. 05-004-0072 and -0073 (portions)

POWERLINE EASEMENT

THE CENTERLINE OF A 100.00 FOOT WIDE POWER LINE EASEMENT BEING 50.00 FEET LEFT AND 50.00 FEET RIGHT OF THE FOLLOWING DESCRIBED ALIGNMENT:

A PART OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 11 NORTH, RANGE 5 WEST OF THE SALT LAKE BASE AND MERIDIAN.

BEGINNING AT A POINT IN AN EXISTING FENCE LINE THAT IS ALONG THE SOUTHERLY BOUNDARY OF A ROCKY MOUNTAIN POWER SUBSTATION BEING A POINT LOCATED 393.67 FEET NORTH 87°23'35" EAST ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 33 AND 3593.73 FEET NORTH 00°00'00" EAST FROM THE SOUTHWEST CORNER OF SAID SECTION 33;

RUNNING THENCE SOUTH 33°08'48" EAST 95.46 FEET; THENCE SOUTH 58°46'58" WEST 205.32 FEET TO THE EAST RIGHT-OF-WAY LINE OF STATE HIGHWAY 83 AND THE TERMINUS OF THIS EASEMENT.

Tax Parcel No. 05-004-0054 (portion)

ADDITIONAL AREA:

BEGINNING AT A POINT 400 FEET EAST OF THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 10 NORTH, RANGE 5 WEST, SALT LAKE BASE AND MERIDIAN; AND RUNNING THENCE EAST 25 RODS; THENCE SOUTH 40.5 RODS; THENCE WEST 25 RODS; THENCE NORTH 40.5 RODS TO THE PLACE OF BEGINNING.

LESS COUNTY ROAD.

ALSO

BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 10 NORTH, RANGE 5 WEST, SALT LAKE BASE AND MERIDIAN, THENCE RUNNING EAST 400 FEET; THENCE SOUTH 7,000 FEET; THENCE WEST 400 FEET; THENCE NORTH 7,000 FEET TO THE PLACE OF BEGINNING, BEING IN SECTIONS 6 & 7 OF SAID TOWNSHIP AND RANGE.

Based on Warranty Deed recorded as Entry No. 58937G on November 26, 1958 in Book 121 Page 159, the Warranty Deed recorded as Entry No. 61256G on April 6, 1959 in Book 124 at Page 468 and Affidavit recorded as Entry Number 151924 on April 23, 2001 in Book 0761 at page 0755 in the records of Box Elder County.

APN 04-005-0013

EXHIBIT B: AMENDMENT

RDA
RESOLUTION NO. 22-02

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY
ADOPTING AN AMENDMENT TO THE OFFICIAL PLAN FOR THE STEEL SOLAR
COMMUNITY REINVESTMENT PROJECT AREA.**

WHEREAS, the Redevelopment Agency of Box Elder County (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code Ann. 1953, as amended (the "Act"); and

WHEREAS, the Agency has adopted by resolution the Steel Solar Community Reinvestment Project Area Plan (the "Plan") for the Steel Solar Community Reinvestment Project Area (the "Project Area"),

WHEREAS, the Agency, by Resolution, has authorized the preparation of an amendment to the Plan (the "Amendment") and has made the draft Amendment available to the public at the Agency's offices during normal business hours; and

WHEREAS, the Agency provided notice of the public hearing in strict compliance with the Act; and

WHEREAS, the Agency has held a public hearing on the draft Amendment and at that hearing (a) allowed public comment on the draft Amendment and whether the draft Amendment should be revised, approved or rejected, and (b) received all written and heard all oral objections to the draft Amendment; and

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the draft Amendment, and whether to revise, approve or reject the draft Amendment;

WHEREAS, less than one year has passed since the date of the public hearing.

**NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE
REDEVELOPMENT AGENCY OF BOX ELDER COUNTY:**

Section 1. Adoption of Amendment to Project Area Plan. It has become necessary and desirable to adopt the draft Amendment as an official amendment to the Project Area Plan. The draft Amendment, in the form attached hereto as **Exhibit B**, and together with any changes to the draft Amendment as may be indicated in the minutes of this meeting (if any), is hereby designated and adopted as a part of the official plan for the Project Area. The Agency shall submit the Amendment, together with a copy of this Resolution, to the County Commission requesting that the Amendment be adopted by ordinance of the legislative body of County in accordance with the provisions of the Act. All comments and objections to the draft Amendment (if any) have been considered and are, unless otherwise provided in the minutes of this meeting (if at all), passed upon.

Section 2. Legal Description of the Project Area Boundaries. The legal description of the boundaries of the Project Area, as amended by the Amendment, covered by the Project Area Plan, as amended, is attached hereto and incorporated herein as **Exhibit A**. A map of the Project Area is attached and incorporated herein as a part **Exhibit B**.

Section 3. Agency's Purposes and Intent. The Agency's purposes and intent with respect to the Project Area are to accomplish the following:

- A. Encourage and accomplish appropriate private development and community reinvestment activities within the Project Area.
- B. Provide for redevelopment infrastructure improvements within or to serve the Project Area.
- C. Provide for the strengthening of the tax base and economic health of the community.

Section 4. Project Area Plan Incorporated by Reference. The Amendment, together with supporting documents, in the form attached as **Exhibit B**, and together with any changes to the draft Amendment as may be indicated in the minutes of this meeting (if any), is hereby incorporated herein by reference, and made a part of this Resolution. Copies of the Amendment shall be filed and maintained in the office of the Agency and the County Clerk for public inspection.

Section 5. Agency Board Findings. The Agency Board hereby determines and finds that the Amendment:

- A. Serves a public purpose by, among other things, encouraging and accomplishing appropriate community reinvestment activities within the Project Area;
- B. Produces a public benefit in the form of, among other things, increased development activity within the boundaries of the Agency, including in particular within the Project Area, that is desirable and will enhance the tax base of all taxing entities within the Project Area, as demonstrated by the analysis provided in the Project Area Plan;
- C. Is economically sound and feasible; in that the revenue needed for the implementation of the Project Area Plan will come from incremental property taxes generated by new private development within the Project Area, all as further shown and supported by the analysis contained in the Project Area Plan;
- D. Conforms to the County's general plan in that, among other things, the Project Area Plan provides that all development in the Project Area is to be in accordance with the County's zoning ordinances and requirements, and the development activities contemplated by the Project Area Plan are in harmony with the County's general plan; and
- E. Promotes the public peace, health, safety and welfare of the County.

Section 6. Effective Date. This Resolution shall take effect immediately upon adoption, and pursuant to the provisions of the Act, the Amendment shall become effective upon adoption by Ordinance of the legislative body of the County.

IN WITNESS WHEREOF, the Governing Board of the Redevelopment Agency of Box Elder County has approved, passed and adopted this Resolution this February 2, 2022.



Attest:



Agency Chair

Secretary



EXHIBIT A: LEGAL DESCRIPTION

Parcel 1

THE WEST HALF OF SECTION 3, TOWNSHIP 13 NORTH, RANGE 3 WEST, SLM. CONTAINING 320 ACRES, MORE OR LESS.

Parcel No. 07-090-0003

Parcel 2

LOTS 1 AND 2 AND THAT PART OF LOT 3 LYING EASTERLY OF THE 100FT RR ROW IN SECTION 4, TOWNSHIP 13 NORTH, RANGE 3 WEST, SLM. CONTAINING 96.83 ACRES, MORE OR LESS.

Parcel No. 07-091-0006

Parcel 3

THE SOUTHWEST QUARTER, WEST HALF OF NORTHEAST QUARTER AND WEST HALF OF SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 14 NORTH, RANGE 3 WEST, SALT LAKE MERIDIAN.

Parcel No. 08-056-0003

Parcel 4

THE SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 14 NORTH, RANGE 3 WEST, SALT LAKE MERIDIAN.

Parcel No. 08-055-0007

Parcel 5

AN APPROXIMATE FOUR-ACRE PARCEL LOCATED IN THE NORTHWEST CORNER OF THE FOLLOWING DESCRIBED REAL PROPERTY:

BEG AT A PT 1790 FT N OF SW COR OF SEC 10, TWP 13N, R 3W, SLM, RUNNING E 925 FT, S 13°E 538 FT, S 78°35'E 326 FT TO A PT ON 1/4 SEC LINE, N 2470 FT, E 80 RDS, N 100 RDS, W 160 RDS, S 2490 FT TO BEG. LESS 12 FT BY 160 RDS ALG N SIDE. LESS: TRACT DEEDED TO G GARTH JOSEPHSON ETAL. LESS: TRACT DEEDED TO NUCOR CORP. CONT 146.23 ACRES.

ADDITIONAL AREA:

Tract 1:

The East Half of the Northeast Quarter of Section 33, Township 14 North, Range 3 West, Salt lake Meridian.

TAX ID :08-055-0004

Tract 2:

The West Half of the Northwest Quarter of Section 34, Township 14 North, Range 3 West, Salt Lake Base and Meridian.

TAX ID :08-056-0001

Tract 3:

(07-090-0013)

LOT 2 OF SECTION 3 TOWNSHIP 13 NORTH, RANGE 3 WEST, SLM. CONTAINING 39.8 ACRES, MORE OR LESS. LESS A PARCEL WARRANTED TO NUCOR CORPORATION AT BOOK 872 PAGE 404A BOX ELDER COUNTY CONTAINING 8 ACRES. LEAVING 31.8 ACRES, MORE OR LESS.

EXHIBIT B: AMENDMENT

RESOLUTION NO. 22-08

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY
ADOPTING AN AMENDMENT TO THE PROJECT AREA BUDGET FOR THE
ROCKET SOLAR COMMUNITY REINVESTMENT PROJECT AREA.**

WHEREAS, the Redevelopment Agency of Box Elder County (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code Ann. 1953, as amended (the "Act"); and

WHEREAS, the Agency has adopted by resolution the Rocket Solar Community Reinvestment Project Area Plan (the "Plan") for the Rocket Solar Community Reinvestment Project Area (the "Project Area"), and has also adopted an amendment to the Plan; and

WHEREAS, the Plan, as amended, allows for the Agency to collect tax increment created within the Project Area for the benefit of Box Elder County (the "County"); and

WHEREAS, the Agency has prepared an amendment to the Project Area Budget in accordance with the Act.

WHEREAS, the Agency has held a public hearing on the draft amendment to the Project Area Budget and at that hearing allowed public comment on the draft amendment to the Project Area Budget and whether the draft amendment to the Project Area Budget should be revised, approved or rejected; and

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the draft amendment to the Project Area Budget, and whether to revise, approve or reject the draft amendment to the Project Area Budget;

**NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE
REDEVELOPMENT AGENCY OF BOX ELDER COUNTY:**

1. The amendment to the Project Area Budget attached hereto as **Exhibit A** and incorporated herein, is hereby approved and adopted effective immediately. All comments and objections to the draft amendment to the Project Area Budget (if any) have been considered and are, unless otherwise provided in the minutes of this meeting (if at all), passed upon.

2. This Resolution takes effect immediately.

IN WITNESS WHEREOF, the Governing Board of the Redevelopment Agency of Box Elder County has approved, passed and adopted this Resolution this February 2, 2022.



ATTEST:


Secretary


Agency Chair

EXHIBIT A: AMENDMENT TO PROJECT AREA BUDGET
[Attached]

RESOLUTION NO. 22-03

**RESOLUTION OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY
ADOPTING AN AMENDMENT TO THE PROJECT AREA BUDGET FOR THE STEEL
SOLAR COMMUNITY REINVESTMENT PROJECT AREA.**

WHEREAS, the Redevelopment Agency of Box Elder County (the "Agency") was created to transact the business and exercise the powers provided for in the current Limited Purpose Local Government Entities - Community Reinvestment Agency Act, Title 17C of the Utah Code Ann. 1953, as amended (the "Act"); and

WHEREAS, the Agency has adopted by resolution the Steel Solar Community Reinvestment Project Area Plan (the "Plan") for the Steel Solar Community Reinvestment Project Area (the "Project Area"), and has also adopted an amendment to the Plan; and

WHEREAS, the Plan, as amended, allows for the Agency to collect tax increment created within the Project Area for the benefit of Box Elder County (the "County"); and

WHEREAS, the Agency has prepared an amendment to the Project Area Budget in accordance with the Act.

WHEREAS, the Agency has held a public hearing on the draft amendment to the Project Area Budget and at that hearing allowed public comment on the draft amendment to the Project Area Budget and whether the draft amendment to the Project Area Budget should be revised, approved or rejected; and

WHEREAS, after holding the public hearing, and at the same meeting, the Agency considered the oral and written objections to the draft amendment to the Project Area Budget, and whether to revise, approve or reject the draft amendment to the Project Area Budget;

**NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE
REDEVELOPMENT AGENCY OF BOX ELDER COUNTY:**

1. The amendment to the Project Area Budget attached hereto as **Exhibit A** and incorporated herein, is hereby approved and adopted effective immediately. All comments and objections to the draft amendment to the Project Area Budget (if any) have been considered and are, unless otherwise provided in the minutes of this meeting (if at all), passed upon.

2. This Resolution takes effect immediately.

IN WITNESS WHEREOF, the Governing Board of the Redevelopment Agency of Box Elder County has approved, passed and adopted this Resolution this February 2, 2022.



ATTEST:


Secretary


Agency Chair

EXHIBIT A: AMENDMENT TO PROJECT AREA BUDGET

- [Attached] -

RDA
Resolution No. 22-07

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE PARTICIPATION AGREEMENT WITH ROCKET SOLAR, LLC, REGARDING TAX INCREMENT FUNDING IN THE ROCKET SOLAR COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS Redevelopment Agency of Box Elder County (the “Agency”) has been created by Box Elder County to transact the business and exercise all of the powers provided for by Title 17C of the Utah Code Annotated, “Limited Purpose Local Government Entities—Community Reinvestment Agency Act” (the “Act”);

WHEREAS, the Agency, in furtherance of the purposes of the Act and the Project Area Plan for the Rocket Solar Community Reinvestment Project Area (the “Project Area”), entered into a Participation Agreement with Rocket Solar, LLC, and now desires to approve an amendment to that Participation Agreement, substantially in the form attached hereto as **Exhibit A**.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY:

1. The Amendment in substantially the form attached hereto as **Exhibit A** is hereby approved, and the Chair of the Agency is authorized and directed to execute the same for and on behalf of the Agency. The Chair is authorized to approve any minor modifications, amendments, or revisions to the Amendment as may be in the Agency’s best interest and in harmony with the overall intent and purpose of the Agreement, and the Chair’s signature upon the final Amendment will constitute the Agency Board’s acceptance of all such minor modifications, amendments, or revisions.

2. This resolution takes effect upon adoption.

THIS RESOLUTION IS APPROVED AND ADOPTED this February 2, 2022.



Jeffrey D. Hall
Chair

Attest:

Maria D. Young
Secretary

Exhibit A
Form of Amendment

FIRST AMENDMENT TO PARTICIPATION AGREEMENT

This FIRST AMENDMENT TO PARTICIPATION AGREEMENT (this “*Amendment*”) is dated to be effective as of _____, 2022, by and between **ROCKET SOLAR, LLC**, a Delaware limited liability company (“**Participant**”), and **BOX ELDER COUNTY REDEVELOPMENT AGENCY**, a political subdivision of the State of Utah (the “**Agency**”). Participant and Agency are parties to that certain Participation Agreement, dated as of May 6, 2020 (as amended, the “*Agreement*”). The Parties now desire to amend the Agreement as follows:

1. Description of the Site. The Agreement is hereby amended to modify the definition of the “Site” to mean “the portion of the Project Area, as may be amended by the Agency, in which Participant holds leasehold, easement or other property rights for purposes of the developing, owning and operating the Facility.” Prior to requesting the first payment of Participant’s Tax Increment Share (as defined in the Agreement), Participant shall provide documentation to the Agency confirming the boundaries of the Site and its location within the Project Area (as defined in the Agreement). Unless such documentation is provided by Participant, the Agency shall have no obligation to independently determine the boundaries of the Site. All references to the “Site” in the Agreement shall mean and refer to the definition of the Site as provided by this Section 1.

2. Notice Address. Section 1.8.2 of the Agreement is hereby amended to replace Participant’s notice address as follows:

Rocket Solar, LLC
c/o D. E. Shaw Renewable Investments
1166 Avenue of the Americas, 9th Floor
New York, New York 10036
Attention: Hy Martin

3. Consistency. Except as set forth in this Amendment, the Agreement shall remain unchanged and in full force and effect. In the event of any inconsistency between the provisions of this Amendment and the Agreement, the provisions of this Amendment will prevail.

4. Counterparts/Signatures. This Amendment may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures and scanned versions of this executed Amendment shall be deemed original counterparts of this Amendment.

[Remainder of page intentionally left blank; signature pages follow]


IN WITNESS WHEREOF, the Agency has executed this Amendment as of the date first set forth above.

**BOX ELDER COUNTY REDEVELOPMENT
AGENCY**

By: Jeffery P. Scott
RDA, Chair

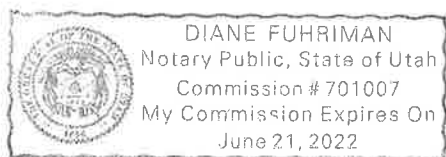
Attest:

Marla Young
RDA, Secretary

A circular notary seal for Box Elder County, State of Utah. The outer ring contains the text "COUNTY CLERK" at the top and "BOX ELDER COUNTY" at the bottom. The inner circle contains the text "STATE OF UTAH" and "SEAL".

STATE OF UTAH)
 : ss.
COUNTY OF BOX ELDER)

In the County of Box Elder, State of Utah, on this 2nd day of February, 2022, before me, the undersigned notary, personally appeared Jeff Scott and Marla Young, the Chair and the Secretary, respectively, of the Box Elder County Redevelopment Agency, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary and on behalf of the Box Elder County Redevelopment Agency by authority of its Board of Directors.



Diane Fuhrman
Notary signature and seal

IN WITNESS WHEREOF, Participant has executed this Amendment as of the date first set forth above.

ROCKET SOLAR, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF NEW YORK)
 : ss
COUNTY OF _____)

On this _____ day of _____ in the year 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

1.4. The Project Area Budget

Pursuant to the Act, a Project Area Budget has been adopted by the Agency for the Project Area (the “**Project Area Budget**”), a copy of which is attached as **Exhibit A**.

1.5. The Project Area Plan

This Agreement is subject to the provisions of the Plan, as amended by the Plan Amendment adopted on [_____], by the Agency and the County Commission (the “**Commission**”) in accordance with the Act. The Plan and Plan Amendment are attached hereto as **Exhibit B**.

1.6. Description of the Site

The site of the Facility (the “**Site**”) consists of the portion of the Project Area, as may be amended by the Agency, in which Participant holds leasehold, easement or other property rights for purposes of the developing, owning and operating the Facility. Prior to requesting the first payment of Participant’s Tax Increment Share (as defined below), Participant shall provide documentation to the Agency confirming the boundaries of the Site and its location within the Project Area. Unless such documentation is provided by Participant, the Agency shall have no obligation to independently determine the boundaries of the Site.

1.7. Interlocal Agreements

On or before the Effective Date, the Agency has entered into separate interlocal agreements (collectively, the “**Interlocal Agreements**”) with various Taxing Entities (as defined in the Act) as follows:

- 1.7.1. That certain Interlocal Cooperation Agreement between the Agency and the County, a copy of which is attached hereto as **Exhibit C**.
- 1.7.2. That certain Interlocal Cooperation Agreement between the Agency and the Box Elder County School District, a copy of which is attached hereto as **Exhibit D**.
- 1.7.3. That certain Interlocal Cooperation Agreement between the Agency and the Box Elder County Mosquito Abatement District, a copy of which is attached hereto as **Exhibit E**.
- 1.7.4. That certain Interlocal Cooperation Agreement between the Agency and the Bear River Water Conservancy District, a copy of which is attached hereto as **Exhibit F**.

Regardless of the use of the Agency Share by the Agency, Participant's Tax Increment Share shall not be increased.

Participant's Tax Increment Share is expressly subject to and limited to the amounts available after the limitations and reductions described in this Agreement. The Agency must pay to Participant Participant's Tax Increment Share only to the extent that Tax Increment is actually generated from the Site and actually paid to and received by the Agency. Tax Increment from the Site received by the Agency is the only funding source available or obligated under this Agreement. Participant acknowledges and agrees that the Agency has no funds or revenue to make payments under this Agreement other than the Tax Increment the Agency receives under the Interlocal Agreements. Notwithstanding any other provisions in this Agreement, Participant's Tax Increment Share shall not include tax revenue received from any currently-existing centrally-assessed property located within the Project Area as the Interlocal Agreements do not allow the Agency to receive tax increment generated by existing centrally-assessed property within the Project Area.

The Agency shall take the steps necessary under the Interlocal Agreements to begin collecting Tax Increment from the Site within the time frame ~~required~~set forth under by the Interlocal Agreements.

2.3. Conditions Precedent to the Payment of Participant's Tax Increment Share

In addition to other provisions in this Agreement, the Agency has no obligation to remit to Participant Participant's Tax Increment Share unless and until all the following conditions precedent, as detailed in the following subsections, are satisfied: (a) Participant has elected to construct the Facility and has actually completed construction and commenced operation of the Facility as provided in Section 2.9.2 below; and (b) Participant has paid or caused to be timely paid all personal property or real property taxes due for the Site and Facility for which Participant is seeking payment.

2.3.1. Agency is Entitled to Receive Tax Increment Payments

The Agency is not obligated to pay to Participant Participant's Tax Increment Share unless the Agency is legally entitled to receive the Tax Increment pursuant to the Interlocal Agreements. The Agency agrees to work in good faith with the Taxing Entities that have executed Interlocal Agreements to ensure that payment of the Tax Increment is timely made to the Agency.

FIRST AMENDMENT TO PARTICIPATION AGREEMENT

This FIRST AMENDMENT TO PARTICIPATION AGREEMENT (this “*Amendment*”) is dated to be effective as of _____, 2022, by and between **ROCKET SOLAR, LLC**, a Delaware limited liability company (“**Participant**”), and **BOX ELDER COUNTY REDEVELOPMENT AGENCY**, a political subdivision of the State of Utah (the “**Agency**”). Participant and Agency are parties to that certain Participation Agreement, dated as of May 6, 2020 (as amended, the “*Agreement*”). The Parties now desire to amend the Agreement as follows:

1. Description of the Site. The Agreement is hereby amended to modify the definition of the “Site” to mean “the portion of the Project Area, as may be amended by the Agency, in which Participant holds leasehold, easement or other property rights for purposes of the developing, owning and operating the Facility.” Prior to requesting the first payment of Participant’s Tax Increment Share (as defined in the Agreement), Participant shall provide documentation to the Agency confirming the boundaries of the Site and its location within the Project Area (as defined in the Agreement). Unless such documentation is provided by Participant, the Agency shall have no obligation to independently determine the boundaries of the Site. All references to the “Site” in the Agreement shall mean and refer to the definition of the Site as provided by this Section 1.

2. Notice Address. Section 1.8.2 of the Agreement is hereby amended to replace Participant’s notice address as follows:

Rocket Solar, LLC
c/o D. E. Shaw Renewable Investments
1166 Avenue of the Americas, 9th Floor
New York, New York 10036
Attention: Hy Martin

3. Consistency. Except as set forth in this Amendment, the Agreement shall remain unchanged and in full force and effect. In the event of any inconsistency between the provisions of this Amendment and the Agreement, the provisions of this Amendment will prevail.

4. Counterparts/Signatures. This Amendment may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures and scanned versions of this executed Amendment shall be deemed original counterparts of this Amendment.

[Remainder of page intentionally left blank; signature pages follow]


IN WITNESS WHEREOF, the Agency has executed this Amendment as of the date first set forth above.

**BOX ELDER COUNTY REDEVELOPMENT
AGENCY**

By:

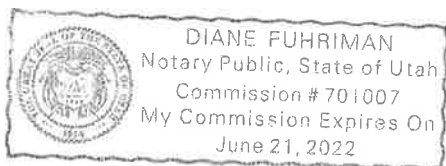
Jeffrey D. Scott
RDA, Chair

Attest:


Marta R. Young
RDA, Secretary

STATE OF UTAH)
 : ss.
COUNTY OF BOX ELDER)

In the County of Box Elder, State of Utah, on this 2 day of February, 20 22 before me, the undersigned notary, personally appeared Jeffrey D. Scott and Marta R. Young, the Chair and the Secretary, respectively, of the Box Elder County Redevelopment Agency, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary and on behalf of the Box Elder County Redevelopment Agency by authority of its Board of Directors.



Diane Fuhrman
Notary signature and seal

Signature Page to First Amendment to Participation Agreement (Rocket Solar)

IN WITNESS WHEREOF, Participant has executed this Amendment as of the date first set forth above.

ROCKET SOLAR, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF NEW YORK)
 : ss
COUNTY OF _____)

On this _____ day of _____ in the year 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

Signature Page to First Amendment to Participation Agreement (Rocket Solar)

Document comparison by Workshare Compare on Friday, January 28, 2022
10:01:44 AM

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Description	#18065261v3<worksite> - First Amendment to Participation Agreement (Rocket Solar) - Draft 1.28.2022
Rendering set	Standard

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Deletion	
Moved from	
<u>Moved to</u>	
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Format change	
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Deleted cell	
Moved cell	
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Padding cell	

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Moved from	0
Moved to	0
Style change	0
Format changed	0

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RDA

Resolution No. 22-05

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE PARTICIPATION AGREEMENT WITH STEEL SOLAR, LLC, REGARDING TAX INCREMENT FUNDING IN THE STEEL SOLAR COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS Redevelopment Agency of Box Elder County (the “Agency”) has been created by Box Elder County to transact the business and exercise all of the powers provided for by Title 17C of the Utah Code Annotated, “Limited Purpose Local Government Entities—Community Reinvestment Agency Act” (the “Act”);

WHEREAS, the Agency, in furtherance of the purposes of the Act and the Project Area Plan for the Steel Solar Community Reinvestment Project Area (the “Project Area”), entered into a Participation Agreement with Steel Solar, LLC, and now desires to approve an amendment to that Participation Agreement, substantially in the form attached hereto as **Exhibit A**.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY:

1. The Amendment in substantially the form attached hereto as **Exhibit A** is hereby approved, and the Chair of the Agency is authorized and directed to execute the same for and on behalf of the Agency. The Chair is authorized to approve any minor modifications, amendments, or revisions to the Amendment as may be in the Agency’s best interest and in harmony with the overall intent and purpose of the Agreement, and the Chair’s signature upon the final Amendment will constitute the Agency Board’s acceptance of all such minor modifications, amendments, or revisions.

2. This resolution takes effect upon adoption.

THIS RESOLUTION IS APPROVED AND ADOPTED this February 2, 2022.



Attest:


Secretary


Chair

Exhibit A
Form of Amendment

FIRST AMENDMENT TO PARTICIPATION AGREEMENT

This FIRST AMENDMENT TO PARTICIPATION AGREEMENT (this “*Amendment*”) is dated to be effective as of _____, 2022, by and between **STEEL SOLAR, LLC**, a Delaware limited liability company (“**Participant**”), and **BOX ELDER COUNTY REDEVELOPMENT AGENCY**, a political subdivision of the State of Utah (the “**Agency**”). Participant and Agency are parties to that certain Participation Agreement, dated as of May 6, 2020 (as amended, the “*Agreement*”). The Parties now desire to amend the Agreement as follows:

1. Description of the Site. The Agreement is hereby amended to modify the definition of the “Site” to mean “the portion of the Project Area, as may be amended by the Agency, in which Participant holds leasehold, easement or other property rights for purposes of the developing, owning and operating the Facility.” Prior to requesting the first payment of Participant’s Tax Increment Share (as defined in the Agreement), Participant shall provide documentation to the Agency confirming the boundaries of the Site and its location within the Project Area (as defined in the Agreement). Unless such documentation is provided by Participant, the Agency shall have no obligation to independently determine the boundaries of the Site. All references to the “Site” in the Agreement shall mean and refer to the definition of the Site as provided by this Section 1.

2. Notice Address. Section 1.8.2 of the Agreement is hereby amended to replace Participant’s notice address as follows:

Steel Solar, LLC
c/o D. E. Shaw Renewable Investments
1166 Avenue of the Americas, 9th Floor
New York, New York 10036
Attention: Hy Martin

3. Consistency. Except as set forth in this Amendment, the Agreement shall remain unchanged and in full force and effect. In the event of any inconsistency between the provisions of this Amendment and the Agreement, the provisions of this Amendment will prevail.


4. Counterparts/Signatures. This Amendment may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures and scanned versions of this executed Amendment shall be deemed original counterparts of this Amendment.

[Remainder of page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, the Agency has executed this Amendment as of the date first set forth above.

**BOX ELDER COUNTY REDEVELOPMENT
AGENCY**

Attest:


Marla Young
RDA, Secretary

By: Jeff D. Scott
RDA, Chair

STATE OF UTAH)
 : ss.
COUNTY OF BOX ELDER)

In the County of Box Elder, State of Utah, on this 2nd day of February, 2022, before me, the undersigned notary, personally appeared Jeff V. Scott and Marla Young, the Chair and the Secretary, respectively, of the Box Elder County Redevelopment Agency, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary and on behalf of the Box Elder County Redevelopment Agency by authority of its Board of Directors.


DIANE FUHRMAN
Notary Public, State of Utah
Commission # 701007
My Commission Expires On
June 21, 2022

Diane Fuhrman
Notary signature and seal

Signature Page to First Amendment to Participation Agreement (Steel Solar)

IN WITNESS WHEREOF, Participant has executed this Amendment as of the date first set forth above.

STEEL SOLAR, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF NEW YORK)
 : ss
COUNTY OF _____)

On this _____ day of _____ in the year 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

FIRST AMENDMENT TO PARTICIPATION AGREEMENT

This FIRST AMENDMENT TO PARTICIPATION AGREEMENT (this “*Amendment*”) is dated to be effective as of _____, 2022, by and between **STEEL SOLAR, LLC**, a Delaware limited liability company (“**Participant**”), and **BOX ELDER COUNTY REDEVELOPMENT AGENCY**, a political subdivision of the State of Utah (the “**Agency**”). Participant and Agency are parties to that certain Participation Agreement, dated as of May 6, 2020 (as amended, the “*Agreement*”). The Parties now desire to amend the Agreement as follows:

1. Description of the Site. The Agreement is hereby amended to modify the definition of the “Site” to mean “the portion of the Project Area, as may be amended by the Agency, in which Participant holds leasehold, easement or other property rights for purposes of the developing, owning and operating the Facility.” Prior to requesting the first payment of Participant’s Tax Increment Share (as defined in the Agreement), Participant shall provide documentation to the Agency confirming the boundaries of the Site and its location within the Project Area (as defined in the Agreement). Unless such documentation is provided by Participant, the Agency shall have no obligation to independently determine the boundaries of the Site. All references to the “Site” in the Agreement shall mean and refer to the definition of the Site as provided by this Section 1.

2. Notice Address. Section 1.8.2 of the Agreement is hereby amended to replace Participant’s notice address as follows:

Steel Solar, LLC
c/o D. E. Shaw Renewable Investments
1166 Avenue of the Americas, 9th Floor
New York, New York 10036
Attention: Hy Martin

3. Consistency. Except as set forth in this Amendment, the Agreement shall remain unchanged and in full force and effect. In the event of any inconsistency between the provisions of this Amendment and the Agreement, the provisions of this Amendment will prevail.

4. Counterparts/Signatures. This Amendment may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures and scanned versions of this executed Amendment shall be deemed original counterparts of this Amendment.

[Remainder of page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, the Agency has executed this Amendment as of the date first set forth above.

**BOX ELDER COUNTY REDEVELOPMENT
AGENCY**

By: Jeffrey D. Scott, Chair

Attest:


Marla R. Young, Secretary

STATE OF UTAH)
 : ss.
COUNTY OF BOX ELDER)

In the County of Box Elder, State of Utah, on this 2 day of February, 2022, before me, the undersigned notary, personally appeared Jeffrey D. Scott and Marla R. Young the Chair and the Secretary, respectively, of the Box Elder County Redevelopment Agency, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary and on behalf of the Box Elder County Redevelopment Agency by authority of its Board of Directors.



Diane Fuhrman
Notary signature and seal

Signature Page to First Amendment to Participation Agreement (Steel Solar)

IN WITNESS WHEREOF, Participant has executed this Amendment as of the date first set forth above.

STEEL SOLAR, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF NEW YORK)
 : ss
COUNTY OF _____)

On this _____ day of _____ in the year 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

Document comparison by Workshare Compare on Friday, January 28, 2022
10:01:01 AM

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Description	#18065264v2<worksite> - First Amendment to Participation Agreement (Steel Solar)
Document 2 ID	interwovenSite://DMS.HOLLANDHART.COM/worksite/18065264/3
Description	#18065264v3<worksite> - First Amendment to Participation Agreement (Steel Solar) - Draft 1.28.2022
Rendering set	Standard

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Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
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Moved to	0
Style change	0
Format changed	0

Total changes	11
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Resolution No. 22-09

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY AUTHORIZING THE EXECUTION OF A PARTICIPATION AGREEMENT WITH ROCKET SOLAR II, LLC, REGARDING TAX INCREMENT FUNDING IN THE ROCKET SOLAR COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS Redevelopment Agency of Box Elder County (the “Agency”) has been created by Box Elder County to transact the business and exercise all of the powers provided for by Title 17C of the Utah Code Annotated, “Limited Purpose Local Government Entities—Community Reinvestment Agency Act” (the “Act”);

WHEREAS, the Agency, in furtherance of the purposes of the Act and the Project Area Plan for the Rocket Solar Community Reinvestment Project Area (the “Project Area”), desires to enter into a Participation Agreement with Rocket Solar II, LLC, substantially in the form attached hereto as **Exhibit A**, providing for the payment of tax increment funds within the Project Area.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY:

1. The Agreement in substantially the form attached hereto as **Exhibit A** is hereby approved, and the Chair of the Agency is authorized and directed to execute the same for and on behalf of the Agency. The Chair is authorized to approve any minor modifications, amendments, or revisions to the Agreement as may be in the Agency’s best interest and in harmony with the overall intent and purpose of the Agreement, and the Chair’s signature upon the final Agreement will constitute the Agency Board’s acceptance of all such minor modifications, amendments, or revisions.

2. This resolution takes effect upon adoption.

THIS RESOLUTION IS APPROVED AND ADOPTED this February 2, 2022.

Attest:



Secretary


Chair

Exhibit A
Form of Agreement

PARTICIPATION AGREEMENT
by and between the
BOX ELDER COUNTY REDEVELOPMENT AGENCY
and
ROCKET SOLAR II, LLC

THIS PARTICIPATION AGREEMENT (this “**Agreement**”) is entered into by and between the **BOX ELDER COUNTY REDEVELOPMENT AGENCY**, a political subdivision of the State of Utah (the “**Agency**”), and **ROCKET SOLAR II, LLC**, a Delaware limited liability company (“**Participant**”), dated to be effective as of the ____ day of _____, 2022 (the “**Effective Date**”). The Agency and Participant may also be individually referred to as “**Party**” and collectively as “**Parties**”). The Parties hereby agree as follows:

1. SUBJECT OF AGREEMENT

1.1. Purpose of the Agreement

The purpose of this Agreement is to carry out in part the Rocket Solar Project Community Reinvestment Project Area Plan, adopted on January 22, 2020, as amended by that certain Rocket Solar Plan Amendment (the “**Plan Amendment**”) adopted on [_____] (collectively, the “**Plan**”) by incentivizing the construction and operation of a utility-scale solar power generation facility (the “**Facility**” or “**Project**”) within the Project Area (as defined in the Plan). Accordingly, this Agreement sets forth the terms and conditions pursuant to which the Agency will provide certain incentives in support of the development and operation of the Facility.

1.2. Agreement in the Best Interests of the County and Residents

This Agreement is in the best interests of Box Elder County (the “**County**”), and the health, safety and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, 17C *et seq*, Utah Code Annotated (and the predecessor Act in Title 17B of the Utah Code), as amended (the “**Act**”).

1.3. The Project Area

The Project Area is located within the boundaries of the County. The exact boundaries of the Project Area are specifically and legally described in the Plan.

1.1. The Project Area Budget

Pursuant to the Act, a Project Area Budget has been adopted by the Agency for the Project Area (the “**Project Area Budget**”), a copy of which is attached as **Exhibit A**.

1.2. The Project Area Plan

This Agreement is subject to the provisions of the Plan, as amended by the Plan Amendment adopted on [], by the Agency and the County Commission (the “**Commission**”) in accordance with the Act. The Plan and Plan Amendment are attached hereto as **Exhibit B**.

1.3. Description of the Site

The site of the Facility (the “**Site**”) consists of the portion of the Project Area, as may be amended by the Agency, in which Participant holds leasehold, easement or other property rights for purposes of the developing, owning and operating the Facility. Prior to requesting the first payment of Participant’s Tax Increment Share (as defined below), Participant shall provide documentation to the Agency confirming the boundaries of the Site and its location within the Project Area. Unless such documentation is provided by Participant, the Agency shall have no obligation to independently determine the boundaries of the Site.

1.4. Interlocal Agreements

On or before the Effective Date, the Agency has entered into separate interlocal agreements (collectively, the “**Interlocal Agreements**”) with various Taxing Entities (as defined in the Act) as follows:

- 1.4.1.** That certain Interlocal Cooperation Agreement between the Agency and the County, a copy of which is attached hereto as **Exhibit C**.
- 1.4.2.** That certain Interlocal Cooperation Agreement between the Agency and the Box Elder County School District, a copy of which is attached hereto as **Exhibit D**.
- 1.4.3.** That certain Interlocal Cooperation Agreement between the Agency and the Box Elder County Mosquito Abatement District, a copy of which is attached hereto as **Exhibit E**.
- 1.4.4.** That certain Interlocal Cooperation Agreement between the Agency and the Bear River Water Conservancy District, a copy of which is attached hereto as **Exhibit F**.

1.5. Parties to the Agreement

1.5.1. The Agency

The Agency is a public body, corporate and political, exercising governmental functions and powers, and organized and existing under the Act. The address of the Agency for purposes of this Agreement is:

Box Elder County Redevelopment Agency
1 South Main Street, Room 33
Brigham City, Utah 84302
Attn: Economic Development Director

With a copy to:

Box Elder County Attorney's Office
81 North Main Street, Suite 102
Brigham City, Utah 84302

1.5.2. Participant

Participant is Rocket Solar II, LLC, a Delaware limited liability company, lawfully registered to do business in Utah. Participant's address for purposes of this Agreement is:

Rocket Solar II, LLC
c/o D. E. Shaw Renewable Investments
1166 Avenue of the Americas, 9th Floor
New York, New York 10036
Attention: Hy Martin

1.6. No Additional Approvals

Upon the approval of this Agreement by the Agency, and the expiration of all statutory notice and contest periods, no additional legislative action is required for the Agency to perform its obligations hereunder.

1.7. Assignment

1.7.1. Restrictions on Assignment without Agency Consent

Except as permitted by Section 1.10.2 hereof, Participant agrees for itself and any successor in interest that during the term of this Agreement Participant shall not assign or transfer or attempt to assign or transfer all or any part of its obligations under this Agreement without the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment in violation of this subsection is void. It is considered reasonable for the Agency to withhold its consent to a proposed assignment if any of the following are true (by way of example only and not as a limitation): (i) the Agency has prior negative experience with, or knowledge about, any of the principals or operators of the proposed assignee, (ii) the assignment would result in a material increase in administrative burden upon the Agency, or (iii) the proposed assignment would be only a partial assignment of

the Participant's rights under this Agreement. Participant shall give notice to the Agency of any proposed assignment and provide such information regarding the proposed assignee that the Agency may reasonably request, including, without limitation, the contact information for the proposed assignee.

1.7.2. Permitted Transfers

Notwithstanding the provisions of this Agreement to the contrary, Participant shall not be required to obtain the Agency's consent, and the Agency shall not be permitted to terminate this Agreement, in connection with the following transfers or the assignment of this Agreement pursuant to the following transfers: (a) transfers to any entity that acquires all or substantially all of the assets of or ownership interests in Participant or any other transfer occurring by operation of law; (b) transfers of less than a controlling interest in Participant or its parent(s); (c) transfers of interests in either the Project or Participant to an affiliate of Participant; (d) changes in the organizational form of Participant; (e) a transfer of the operational responsibilities of the Project to a third party; (f) subletting or licensing of the Project; (g) a sale and lease back or similar financing transaction of the Project; and (h) the granting of any lien, security interest, or other encumbrance upon the Project or the interests of Participant in the Project. In addition, Participant may transfer real and personal property in the Project Area and retain Participant's rights to receive Tax Increment under this Agreement. The term "affiliate" means, for purposes of this Section 1.10.2, the following with respect to any person or entity: another person or entity that directly or indirectly, through one or more intermediaries, has control of, is controlled by, or is under common control with, such person or entity. For these purposes, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management of the person or entity, whether through the ownership of voting securities, by contract or otherwise.

1.7.3. Continuing Obligations

Except for a transfer or assignment of this Agreement which has been consented to by the Agency or is expressly permitted under subsection 1.10.2, no assignment or transfer of this Agreement, any part hereof, any right herein, or approval hereof, by the Agency shall be deemed to relieve the assignor from any obligation under this Agreement. Upon the Agency's consent to an assignment of this Agreement (if such consent is required), the assigning Participant will be relieved of all obligations under this Agreement arising from and after the date of such assignment and the Agency shall look solely to the assignee for performance of the obligations under this Agreement from and after the date of such assignment. All of the terms, covenants, and conditions of this Agreement shall be binding upon and shall inure to the benefit of Participant and its permitted successors and assigns.

1.7.4. Payment of Tax Increment After Transfer

In the event that any portion of this Agreement is assigned or transferred as described in Sections 1.10.1 or 1.10.2, the Agency shall pay the entire Participant's Tax Increment Share (as defined in Section 2.2) to the person or entity that is a party to this Agreement following such assignment and is Participant for purposes of this Agreement as set forth in Section 2.1. In no event will the Agency, without the Agency's approval in its reasonable discretion, be obligated to pay the Participant's Tax Increment Share, or any portion of it, to multiple parties.

2. OBLIGATIONS OF THE PARTIES

2.1. Payment of Tax Increment

The Agency agrees that so long as Participant fulfills all of its obligations set forth herein, the Agency shall pay to Participant Participant's Tax Increment Share, as set forth in Section 2.2 below. The Agency shall make the contemplated Tax Increment payment(s) to Participant within thirty (30) days after the date(s) on which all of the conditions precedent as set forth in Section 2.3 have been met.

2.2. Tax Increment

The Plan and payments contemplated in this Agreement will be funded by Tax Increment as that phrase is defined and used in the Act in compliance with the provisions of the Act. **"Participant's Tax Increment Share"** means, for a period of twenty (20) years beginning on the date that the Tax Increment is first generated with respect to the Site and Facility (the **"Term"**), fifty-seven percent (57%) of the Tax Increment generated from the Site that is received by the Agency under the Interlocal Agreements, on an annual basis. Participant acknowledges that the Interlocal Agreements allow the Agency to receive one hundred percent (100%) of the Tax Increment generated within the Project Area (the **"Agency Share"**) and that (i) the Agency is required to pay amounts equal to thirty percent (30%) of the Agency Share to the various Taxing Entities that are parties to the Interlocal Agreements, and (ii) the Agency is required under the Interlocal Agreements to allocate ten percent (10%) of the Agency Share toward affordable housing as described in Utah Code §17C-5-307(3), and (iii) the Agency is retaining a three percent (3%) administration fee from the Agency Share, which leaves fifty-seven percent (57%) of the Agency Share to be paid to Participant to incentivize the development of the Project. Regardless of the use of the Agency Share by the Agency, Participant's Tax Increment Share shall not be increased.

Participant's Tax Increment Share is expressly subject to and limited to the amounts available after the limitations and reductions described in this Agreement. The Agency must pay to Participant Participant's Tax Increment Share only to the extent that Tax Increment is actually generated from the Site and actually paid to and received by the Agency. Tax Increment from the Site received by the Agency is the only funding source available or obligated under this Agreement. Participant acknowledges and agrees that the Agency has no funds or revenue to

make payments under this Agreement other than the Tax Increment the Agency receives under the Interlocal Agreements. Notwithstanding any other provisions in this Agreement, Participant's Tax Increment Share shall not include tax revenue received from any currently-existing centrally-assessed property located within the Project Area as the Interlocal Agreements do not allow the Agency to receive tax increment generated by existing centrally-assessed property within the Project Area.

The Agency shall take the steps necessary under the Interlocal Agreements to begin collecting Tax Increment from the Site within the time frame set forth under by the Interlocal Agreements.

2.3. Conditions Precedent to the Payment of Participant's Tax Increment Share

In addition to other provisions in this Agreement, the Agency has no obligation to remit to Participant Participant's Tax Increment Share unless and until all the following conditions precedent, as detailed in the following subsections, are satisfied: (a) Participant has elected to construct the Facility and has actually completed construction and commenced operation of the Facility as provided in Section 2.9.2 below; and (b) Participant has paid or caused to be timely paid all personal property or real property taxes due for the Site and Facility for which Participant is seeking payment.

2.3.1. Agency is Entitled to Receive Tax Increment Payments

The Agency is not obligated to pay to Participant Participant's Tax Increment Share unless the Agency is legally entitled to receive the Tax Increment pursuant to the Interlocal Agreements. The Agency agrees to work in good faith with the Taxing Entities that have executed Interlocal Agreements to ensure that payment of the Tax Increment is timely made to the Agency.

2.3.2. Agency has Actually Received Tax Increment Payments

Despite anything in this Agreement to the contrary, the Agency is not obligated to pay to Participant any annual payment of Participant's Tax Increment Share unless the Agency has first received the annual Agency Share pursuant to the applicable Interlocal Agreement(s).

2.3.3. Appeals of Property Tax Assessments

Participant may at its cost and expense petition to have the assessed valuation of the Site and/or Facility reduced or may initiate proceedings to contest such property taxes, and Participant acknowledges that any reduction in assessed value of the property located in the Project Area will result in a corresponding reduction in Participant's Tax Increment Share. Regardless of whether Participant files an appeal to contest the value of its real or personal property, Participant shall pay the real and personal property taxes based on the assessed value.

Upon the final determination of any such proceeding or contest, Participant shall be paid a refund for any reduction in value or pay all property taxes due, together with interest and penalties properly assessed, if any. In the event the County Assessor, County Board of Equalization, Utah State Tax Commission or any lawful entity authorized by law to determine the personal property or real property taxes against the property within the Site adjusts the assessed or taxable value of such property through an appeal, an audit or similar action, Participant's Tax Increment Share shall be proportionately increased or decreased, which may result in a refund from Participant to the Agency, or an increased amount of Participant's Tax Increment Share from the Agency to Participant. Any such payment based on the change in personal property or real property taxes must be paid within thirty (30) days after the additional taxes are paid by Participant or refund for overpayment of taxes is received by Participant.

1.3.1. Payment by Agency of Participant's Tax Increment Share

The Agency will pay to Participant, once annually, Participant's Tax Increment Share within thirty (30) calendar days of the Agency's receipt from the Box Elder County Treasurer of the final payment of Tax Increment generated by the Site and/or Facility. For informational purposes, the Agency typically receives tax increment payments from the Box Elder County Treasurer in April for the preceding tax year.

2.4. Reduction of or Elimination of Tax Increment

Subject to Participant's rights in the immediately following sentence, if the provisions of Utah law which govern the payment of Tax Increment to the Agency are changed or amended so as to reduce or eliminate the amount paid to the Agency under the Interlocal Agreements, the Agency's obligation to pay Participant's Tax Increment Share, as applicable, will be proportionately reduced or eliminated. Notwithstanding any change in law, Participant specifically reserves and does not waive any right it may have to challenge, at Participant's sole cost and expense, the constitutionality of any law change(s) that would reduce or eliminate the payment of Tax Increment to the Agency and/or Participant's Tax Increment Share and nothing herein shall be construed as an estoppel, waiver or consent to reduce or eliminate payment of Tax Increment to the Agency and/or Participant's Tax Increment Share. Participant acknowledges, understands, and agrees that the Agency is under no obligation to challenge the validity, enforceability, or constitutionality of a change in law that reduces or eliminates the payment of Tax Increment to the Agency and/or Participant's Tax Increment Share, or to otherwise indemnify or reimburse Participant for its actions to independently do so; provided, the Agency will not oppose Participant, and, if requested by Participant, Agency will cooperate with Participant, if Participant challenges a change in the law that reduces or eliminates the payment of Tax Increment to the Agency. Except as set forth herein, the Agency is under no further obligation with respect to the Participant's efforts to challenge a change in the law. Participant agrees that Agency may utilize the Participant's Tax Increment Share as necessary to pay for such cooperation, and that any out-of-pocket or third-party costs incurred by the Agency in

connection with providing such cooperation will be deducted from amounts otherwise payable to the Participant; provided, however, Participant and Agency shall mutually agree on the scope, nature, and rates charged by such third-parties. In the event any change in law invalidates the Tax Increment provided in support of the Project, Participant is hereby released from any and all obligations made by Participant to the Agency. For further clarity, Participant at its sole and exclusive discretion may, without penalty, terminate this Agreement if any change in law invalidates Participant's right to receive all or any portion of the Tax Increment Reimbursement. For purposes of this Section 2.4 and Section 2.5 below, the Agency's agreement to cooperate means the Agency agrees to (i) provide to Participant information requested by Participant that is in the Agency's possession, control, or custody; (ii) defend against any legal action seeking specific performance, declaratory relief or injunctive relief that would have the effect of impairing or reducing the payment of the Participant's Tax Increment Share, (iii) set court dates at the earliest practicable date(s), (iv) testify on behalf of Participant consistent with the terms, intent and purposes of this Agreement, (v) to provide access to information and data necessary to defend against such action, and (vi) not cause delay in the prosecution/defense of the action, provided such cooperation shall not require any Party to waive any rights against the other Party.

2.5. Declaration of Invalidity

In the event a court of competent jurisdiction after final adjudication (by the highest court to which the matter may be appealed) (i) declares that the Agency cannot receive Tax Increment or reimburse Participant from Tax Increment funds as provided in this Agreement, (ii) invalidates the Project Area, or (iii) takes any other action that eliminates or reduces the amount of Tax Increment paid to the Agency, the Agency's obligation to pay Participant's Tax Increment Share to Participant hereunder shall be accordingly reduced or eliminated. Participant specifically reserves and does not waive hereunder any right it may have to challenge a ruling, decision or order by any court that would reduce or eliminate the payment of Tax Increment to the Agency. Participant acknowledges, understands and agrees that the Agency is under no obligation to challenge a ruling, decision or order by any court that reduces or eliminates the payment of Tax Increment to the Agency; provided, the Agency will not oppose Participant and, if requested by Participant, will cooperate with Participant if Participant challenges a ruling by any court. Cooperation by the Agency means the Agency will provide to the Participation information requested by the Participation that is in the possession, control, or custody of the Agency; the Agency is under no further obligation with respect to the Participant's efforts to challenge a court ruling, except as otherwise required by applicable law. Additionally, if any court invalidates the Plan or Project Area Budget as a result of a procedural defect, the Agency shall take such actions as are necessary to correct such procedural defect and adopt the Plan and Project Area Budget. Participant agrees that Agency may utilize the Agency Share as necessary to pay for such cooperation. In the event any court invalidates the Tax Increment provided in support of the Project, Participant is hereby released from any and all obligations made by Participant to the Agency. For further clarity, Participant at its sole and exclusive discretion may,

without penalty, terminate its obligations under this Agreement if any court invalidates Participant's right to receive all or any portion of Participant's Tax Increment Share.

2.6. New Taxes

The Agency agrees that if any Taxes (defined as taxes levied on an *ad valorem* basis upon land, real property improvements, personal property, or any other property within the Project Area), other than special assessments assessed against all property within an assessment district in accordance with the special benefits conferred upon the property and not in excess of such benefits as provided for under applicable law, but including levies, imposts, franchise fees or taxes, duties, deductions, withholdings, and similar charges, are enacted during the term of this Agreement and by applicable law are allowed to be used as Project Area Funds (the "**New Taxes**"), the Agency shall request that the applicable Taxing Entity(ies) amend the Interlocal Agreements to include such New Taxes and, if such amendment is made to the Interlocal Agreements, the Agency shall make an economic development payment to Participant equal to all such New Taxes for the duration of the term of this Agreement to the fullest extent the Agency is legally able to do so pursuant to the Act (and any such "economic development payment" will be considered an additional payment of Participant's Tax Increment Share for all purposes under this Agreement). The Agency shall not consent to an amendment or modification of any existing Taxes so as to cause them to first become applicable to the Project Area or Participant (including without limitation any materials purchased for use in connection with the construction, repair, replacement or replenishment of any materials or equipment used for the Project (collectively, "**Equipment**") after the Effective Date, and if existing Taxes are so amended or modified, the Agency shall seek to amend the Interlocal Agreements to include such Taxes and will make economic development payments equal to all such Taxes to Participant to the fullest extent the Agency is legally able to do so. The Agency will not consent to any increase in the applicable rate, as of the Effective Date, of any Tax affecting the Project Area unless such increase is pursuant to, and in proportion with, an across-the-board increase in all rates for such Tax.

2.7. Central Assessment

In the event of any change in law, or if the type of real property or personal property used by Participant results in Taxes not being assessed by a Taxing Entity which has agreed to pay such Taxes to the Agency pursuant to an Interlocal Agreement, the Agency shall use all commercially reasonable efforts to enter into Interlocal Agreements with the governmental agency responsible for assessing such Taxes, to the extent necessary, to cause all Tax Increment payable with respect to the real property and personal property located in the Project Area to be payable to the Agency and then to Participant on the terms set forth herein.

2.8. Dispute Over Agreement

In the event a dispute arises with respect to this Agreement, the prevailing party shall be entitled to any reasonable costs and expenses, including reasonable attorneys' fees, incurred related to the dispute.

2.9. Participant's Obligations; Limitations

To qualify to receive Participant's Tax Increment Share as set forth herein, Participant shall fulfill all of its obligations as set forth in this Agreement, including, without limitation, the obligations set forth in this Section 2.9. Notwithstanding anything to the contrary herein, Participant's fulfillment of the obligations contained in this Section 2.9 shall be at the sole discretion of Participant and Participant's failure to construct or operate the Facility as contemplated in this Section 2.9 shall not constitute a default hereunder but such failure shall constitute a failure of a condition to the Agency's obligation to make a payment of the Tax Increment to Participant.

2.9.1. Construction of the Facility

Participant shall use commercially reasonable efforts to construct the Facility and improve the Site as contemplated by the Plan.

2.9.2. Operation of the Facility

Following completion of construction, Participant shall operate the Site and Facility as a utility-scale solar energy generation project as contemplated by the Plan. For purposes of this Agreement, Participant shall be deemed to have continuously operated the Facility notwithstanding temporary or intermittent cessation of operations for inspection, maintenance, repair, replacement, curtailment, and/or events of force majeure.

2.9.3. Commencement of Operations

Such operations as described in Section 2.9.2 are anticipated to begin on or around March 31, 2024 (the "**Commercial Operations Date**"). If such operations commence, or are reasonably anticipated to commence, after the Commercial Operations Date for any reason, Participant shall provide written notice of such delay to the Agency. For purposes of this section, the Facility shall be deemed to be in operation on the date that electrical energy is being generated by photovoltaic solar panels and available to be sold.

2.10. Funding Responsibility

The Parties understand and agree that the Agency shall not be liable or responsible for providing, obtaining, or guaranteeing any financing for the construction of the Facility or other improvements.

2.11. Agency's Encumbrance of Tax Increment

The Agency agrees that it shall not, without the prior written consent of Participant, issue any bonds or other indebtedness that may be secured by Tax Increment which are payable senior to or have priority over any obligation of the Agency to reimburse Participant for amounts due hereunder from Participant's Tax Increment as provided in this Agreement.

3. OPERATION AND DEVELOPMENT OF THE SITE

3.1. Development of the Facility

The Agency shall have no responsibility for the development and operation of the Facility, which shall be the sole responsibility of Participant. Recognizing the level of capital investment by Participant in the development of the Facility, the Agency has determined that it is in the best interests of the residents of the County to provide Tax Increment to Participant as an incentive to undertake the development and continued operation of the Facility as contemplated in this Agreement and in the Plan.

3.2. Responsibility for Development Plans and Permits

Participant is solely responsible for preparing, or causing to be prepared, all plans and securing all permits for the development of the Facility. For the avoidance of doubt, in the event Participant elects to develop the Facility, Participant, but not the Agency, shall be responsible for preparing and completing any plans for the construction of the Facility.

3.3. Discrimination

Participant agrees for itself and its successors and assigns that it will not unlawfully discriminate against any employee or applicant for employment, or any contractor or any bidder on any contract.

3.4. Rights of Access

Representatives of the Agency shall have the right of reasonable access to the Site and any and all improvements thereon, including the Facility, for purposes of inspection, with reasonable and prior notice, and without charges or fees, at normal hours. Such representatives of the Agency and other visitors to the Site shall observe any rules, regulations or protocols adopted by Participant for purposes of maintaining safety and security on the Site, including requirements that such representatives or visitors be escorted by the general manager or other designated agent of Participant at all times. Such representatives of the Agency shall be those who are so identified in writing by the Agency. The Agency agrees to and shall indemnify and hold Participant harmless from and against all liabilities, losses, damages, costs, or expenses arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person resulting from or arising out of the Agency's entry upon or activities on the Site, except that this indemnity shall not apply to proportional negligence or willful misconduct of Participant.

3.5. Responsibility of the Agency

The Agency shall not have any obligation under this Agreement other than those specifically provided for herein. Nothing herein shall be construed as requiring the Agency to pre-approve or prejudice any matter, or as otherwise binding the Agency's discretion or judgment on any issue prior to an appropriate hearing (if required), review, or compliance with any other requirement.

4. EFFECT AND DURATION OF COVENANTS; TERM OF AGREEMENT

The covenants, including but not limited to conformance with federal, local, and state laws, established in this Agreement shall, without regard to technical classification and designation, be binding on Participant for the benefit and in favor of the Agency and the Agency's successors and assigns during the term of this Agreement, which shall terminate upon the final Tax Increment payment as set forth in Article 2 of this Agreement, or expiration of the Plan, whichever occurs first.

5. DEFAULTS, REMEDIES AND TERMINATION

5.1. Default

If either the Agency or Participant fails to perform or delays performance of any material term or provision of this Agreement, such conduct not cured within the applicable cure period set forth in this Section 5 constitutes a default of this Agreement ("**Default**"). The Party in default shall immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy within the periods provided in Section 5.3 hereof.

5.2. Notice

If a Default under this Agreement occurs, the non-defaulting Party shall give written notice (a "**Default Notice**") of the Default to the defaulting Party, specifying the nature of the Default. Failure or delay in giving such notice shall not constitute a waiver of any Default, nor shall it change the time of Default, nor shall it operate as a waiver of any rights or remedies of the non-defaulting Party; but the non-defaulting Party shall have no right to exercise any remedy hereunder without delivering the Default Notice as provided herein. Delays by either Party in asserting any of its rights and remedies shall not deprive the other Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

5.3. Cure Period

The non-defaulting Party shall have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of one hundred eighty (180) days after delivery of the Default Notice with respect thereto, or, where the Default is of a nature which

cannot be cured within such hundred eighty (180) period, the defaulting Party fails to commence such cure within hundred eighty (180) days and to diligently proceed to complete the same. A Default which can be cured by the payment of money is understood and agreed to be among the types of defaults which can be cured within thirty (30) days. If the Default is not cured, or commenced to be cured if such Default is of a nature which cannot be cured within hundred eighty (180) days, by such Party within hundred eighty (180) days of delivery of the Default Notice, the non-defaulting Party, at its option, may pursue such rights and remedies as it may have under this Agreement, at law or in equity.

5.3.1. Rights and Remedies

Upon the occurrence of a Default (following the expiration of the applicable cure period provided herein or by law), the non-defaulting Party shall have all rights and remedies against the defaulting Party as may be available at law or in equity to cure, correct or remedy any Default, to terminate this Agreement, to recover damages for any default, or to obtain any other remedy consistent with the purposes of this Agreement. In the case of a Default by Participant, the Agency may seek to recover damages in an amount not to exceed the amount of Participant's Tax Increment actually received by Participant. Such rights and remedies are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same Default or any other Default by the defaulting Party.

5.3.2. Legal Actions

5.3.2.1. Venue

All legal actions between the Parties, arising under this Agreement, shall be conducted exclusively in the District Court for the State of Utah located in Box Elder County, unless they involve a case with federal jurisdiction, in which case they shall be conducted exclusively in the Federal District Court for the District of Utah.

5.3.2.2. Service of Process

Service of process on the Agency shall be made by personal service upon the Chairman or Executive Director of the Agency or in such other manner as may be provided by law.

Service of process on Participant shall be by personal service upon its Registered Agent, or in such other manner as may be provided by law, whether made within or without the State of Utah.

5.3.2.3. Applicable Law

The laws of the State of Utah shall govern the interpretation and enforcement of this Agreement.

5.3.2.4. Waiver of Jury Trial

Each Party hereto hereby irrevocably waives any and all rights it may have to demand that any action, proceeding or counterclaim arising out of or in any way related to this Agreement be tried by jury. This waiver extends to any and all rights to demand a trial by jury arising from any source, including but not limited to the Constitution of the United States, the Constitution of any state, common law or any applicable statute or regulation. Each Party hereby acknowledges that it is knowingly and voluntarily waiving the right to demand trial by jury.

5.3.2.5. Early Termination by Participant

Participant may at any time elect to terminate this Agreement by providing written notice to Agency, in which event, this Agreement shall terminate as of the date of the delivery of such notice to Agency, and in which case the Agency will have no further obligations of any kind to the Participant arising from and after the date of termination.

6. GENERAL PROVISIONS

6.1. Authority

Each Party hereby represents and warrants to the other that the following statements are true, complete, and not misleading as regards the representing and warranting party: (a) such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder; (b) those executing this Agreement on behalf of each Party do so with the full authority of the Party each represents; (c) this Agreement constitutes a legal, valid, and binding obligation of each Party, enforceable in accordance with its terms.

6.2. Notices, Demands, and Communications between the Parties

Formal notices, demands, and communications between the Agency and Participant shall be sufficiently given if personally delivered or if dispatched by registered or certified mail, postage prepaid, return-receipt requested, to the principal offices of the Agency and Participant, as designated in Sections 1.8.1 and 1.8.2 hereof. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by formal notice hereunder. Delivery of notice shall be complete upon mailing or making physical delivery of the writing containing the notice.

6.3. Severability

In the event that any condition, covenant or other provision herein contained is held to be invalid or void by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant, condition, or provision herein contained unless such severance shall have a material effect on the terms of this Agreement. If such condition, covenant or other provision shall be deemed invalid due to its

scope, all other provisions shall be deemed valid to the extent of the scope or breadth permitted by law.

6.4. Nonliability of Agency Officials and Employees

No director, officer, agent, employee, representative, contractor, attorney or consultant of the Agency shall be personally liable to Participant, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to Participant or to its successor, or on any obligations under the terms of this Agreement. No director, officer, agent, employee, representative, contractor, attorney or consultant of Participant shall be personally liable to the Agency, or any successor in interest, in the event of any default or breach by Participant or for any amount which may become due to Agency or to its successor, or on any obligations under the terms of this Agreement.

6.5. Enforced Delay; Extension of Time and Performance

In addition to the specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or Defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of a public enemy; terrorist activity; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or suppliers; acts of the other Party; or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent, whether on the part of the Agency's Executive Director or its governing board or on the part of Participant, to the other Party within thirty (30) days of actual knowledge of the commencement of the cause. Time of performance under this Agreement may also be extended in writing by the Agency and Participant by mutual agreement.

6.6. Approvals

Whenever the consent or approval is required of any Party hereunder, except as otherwise herein specifically provided, such consent or approval shall not be unreasonably withheld or delayed, and shall be in writing.

6.7. Time of the Essence

Time shall be of the essence in the performance of this Agreement.

6.8. Interpretation

The Parties hereto agree that they intend by this Agreement to create only the contractual relationship established herein, and that no provision hereof, or act of either Party hereunder, shall be construed as creating the relationship of principal and agent, or a partnership, or a joint venture or enterprise between the Parties hereto. Neither Party shall be deemed the drafter of this Agreement.

6.9. No Third-Party Beneficiaries

It is understood and agreed that this Agreement shall not create for either Party any independent duties, liabilities, agreements, or rights to or with any third party, nor does this Agreement contemplate or intend that any benefits hereunder accrue to any third party.

6.10. Incorporation of Exhibits

All exhibits attached hereto are incorporated into this Agreement as if fully set forth herein.

7. DUPLICATION, INTEGRATION, WAIVERS, AND AMENDMENTS

7.1. Duplicate Originals; Electronic Signatures

This Agreement may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures and scanned versions of this executed Agreement shall be deemed original counterparts of this Agreement.

7.2. Integration

This Agreement (including its exhibits) constitutes the entire understanding and agreement of the Parties. When executed by the Parties, this Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the Site.

7.3. Waivers and Amendments

All waivers of the provisions of this Agreement must be in writing. This Agreement and any provisions hereof may be amended only by mutual written agreement between Participant and the Agency.

8. MORTGAGEE PROTECTIONS; ESTOPPEL

8.1. No Limitation on Encumbrances

The Parties hereto agree that this Agreement shall not prevent or limit Participant from encumbering the Project or any estate or interest therein, portion thereof, or any improvement thereon, in any manner whatsoever by one or more mortgages, deeds of trust, sale and leaseback, or other form of secured financing (“**Mortgage**”) with respect to the construction, development,

use or operation of the Project and parts thereof. The Agency acknowledges that the lender(s) providing such Mortgages may require certain interpretations and modifications to this Agreement and the Agency agrees, upon request, from time to time, to respond to any such request for interpretation or modification. The Agency agrees to reasonably consider any reasonable request from a lender to modify this Agreement so long as the requested modification is consistent with the intent and purposes of this Agreement.

8.2. No Obligations of Mortgagee

Notwithstanding any of the provisions of this Agreement to the contrary, the holder of a Mortgage (a “**Mortgagee**”) shall not have any obligation or duty pursuant to the terms set forth in this Agreement to perform the obligations of Participant or other affirmative covenants of Participant hereunder, or to guarantee such performance.

8.3. Notices to Mortgagee

The Mortgagee of any Mortgage or deed of trust encumbering the Project, or any part or interest thereof, that has submitted a request in writing to the Agency in the manner specified herein for giving notices shall be entitled to receive written notification from the Agency of any notice of non-compliance by Participant in the performance of Participant’s obligations under this Agreement. If the Agency timely receives a request from a Mortgagee requesting a copy of any notice of non-compliance given to Participant under the terms of this Agreement, the Agency shall use commercially reasonable efforts to provide a copy of that notice to the Mortgagee within twenty-one (21) days of sending the notice of non-compliance to Participant. The Mortgagee shall have the right, but not the obligation, to cure the non-compliance for a period of ninety (90) days after the date of commencement of non-compliance, regardless of if or when Mortgagee actually receives such written notice.

8.4. New Agreement After Default

If this Agreement is terminated as to any portion of the Project by reason of (i) any Default or (ii) as a result of a bankruptcy proceeding of Participant, or if this Agreement is disaffirmed by a receiver, liquidator, or trustee for Participant or its property, the Agency, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new Participation Agreement for the Project as to such portion of the Project with the most senior Mortgagee requesting such new agreement.

8.5. Estoppel Certificates

At any time, and from time to time (but not more than four (4) time per year), Participant may deliver written notice to the Agency, and the Agency may deliver written notice to Participant, requesting that such Party certify in writing that, to the knowledge of the certifying Party each of the following (if true): (i) this Agreement is in full force and effect and a binding

obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, (iii) the requesting Party is not then in breach of this Agreement, or if in breach, a description of each such breach, and (iv) any other factual matters reasonably requested (an “**Estoppel Certificate**”). The Executive Director of the Agency shall be authorized to execute, on behalf of the Agency, any Estoppel Certificate requested by Participant which complies with this Section 8.5 within fifteen (15) days, or such amount of time as is reasonably required by the Executive Director considering the circumstances, of a written request for such Estoppel Certificate. The Agency’s failure to furnish an Estoppel Certificate within thirty (30) days after request therefor shall be conclusively presumed that: (a) this Agreement is in full force and effect without modification in accordance with the terms set forth in the request; and (b) that there are no breaches or defaults on the part of Participant. The Agency acknowledges that an Estoppel Certificate may be relied upon by transferees or successors in interest to Participant and by Mortgagees holding an interest in the Property.

9. CONFIDENTIALITY

9.1. Information Maintained Confidential

The Parties acknowledge and agree that this Agreement shall become a public record under Utah law, and that discussion regarding this Agreement shall take place before the Agency board in open session. The Agency will, to the extent legally permissible, hold all information obtained by it, or any person employed by or representing the Agency, related to Participant’s business in strictest confidence and the Agency will not disclose, divulge or otherwise communicate in any manner to any person or entity, other than to those parties necessary to verify compliance with this Agreement, provided that such Parties are likewise under reasonable confidentiality obligations and not subject to public disclosure unless otherwise required by applicable laws. Despite any of the foregoing, however, the parties acknowledge that as a political subdivision of the State of Utah the Agency is under certain statutory limitations regarding confidentiality and nothing in this Agreement will be interpreted to contradict any applicable law.

9.2. Protection of Confidential Business Information

Participant may designate any trade secrets or confidential business information included in any report or other writing delivered to the Agency pursuant to or in connection with this Agreement by any method intended to clearly set apart the specific material that Participant claims to be either its trade secrets or confidential business information that, if released, would give an advantage to competitors of Participant and serve no public purpose (such information, collectively, “**Confidential Business Information**”). Only to the extent permissible under applicable law, the Agency shall redact or delete from any records it makes available for inspection or of which it provides copies any material designated by Participant as Confidential Business Information. Promptly following the Agency’s receipt of any request to provide copies


of public records relating to this Agreement or the Project or for inspection of the same by any third party, the Agency shall give written notice and a copy of such request to Participant. Except as may be otherwise required by applicable law, the Agency shall not allow inspection or provide copies of any such records until the Participant shall have had not less than five business days excluding the day of receipt to determine whether to contest the right of any party to inspect or receive copies of the records or to inspect such records without redaction of the Confidential Business Information. The costs, damages, if any, and attorneys' fees in any proceeding commenced by Participant or at its request by the Agency to prevent or enjoin the release of Confidential Business Information in any public records relating to this Agreement or the Project shall be borne by Participant. Despite any of the foregoing, however, the parties acknowledge that as a political subdivision of the State of Utah the Agency is under certain statutory limitations regarding confidentiality and nothing in this Agreement will be interpreted to contradict any applicable law.

[Remainder of page intentionally left blank; signature pages follow]

**BOX ELDER COUNTY REDEVELOPMENT
AGENCY**

By: Jeffrey D. Scott
RDA, Chair

Attest:


Marla Wang
RDA, Secretary

STATE OF UTAH)
 : ss.
COUNTY OF BOX ELDER)

In the County of Box Elder, State of Utah, on this 2nd day of February, 2022, before me, the undersigned notary, personally appeared Jeff Scott and Marla Wang, the Chair and the Secretary, respectively, of the Box Elder County Redevelopment Agency, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary and on behalf of the Box Elder County Redevelopment Agency by authority of its Board of Directors.



Diane Fuhrman
Notary signature and seal

ROCKET SOLAR II, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

STATE OF NEW YORK)
 : ss
COUNTY OF _____)

On this _____ day of _____ in the year 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

Exhibit A

Project Area Budget

Exhibit B

Project Area Plan

Exhibit C

County Interlocal Agreement

Exhibit D

Box Elder County School District Interlocal Agreement

Exhibit E

Mosquito Abatement District Interlocal Agreement

Exhibit E

Bear River Water Conservancy District Interlocal Agreement

RDA

Resolution No. 22-04

A RESOLUTION OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY AUTHORIZING THE EXECUTION OF A PARTICIPATION AGREEMENT WITH STEEL SOLAR II, LLC, REGARDING TAX INCREMENT FUNDING IN THE STEEL SOLAR COMMUNITY REINVESTMENT PROJECT AREA.

WHEREAS Redevelopment Agency of Box Elder County (the “Agency”) has been created by Box Elder County to transact the business and exercise all of the powers provided for by Title 17C of the Utah Code Annotated, “Limited Purpose Local Government Entities—Community Reinvestment Agency Act” (the “Act”);

WHEREAS, the Agency, in furtherance of the purposes of the Act and the Project Area Plan for the Steel Solar Community Reinvestment Project Area (the “Project Area”), desires to enter into a Participation Agreement with Steel Solar II, LLC, substantially in the form attached hereto as **Exhibit A**, providing for the payment of tax increment funds within the Project Area.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE REDEVELOPMENT AGENCY OF BOX ELDER COUNTY:

1. The Agreement in substantially the form attached hereto as **Exhibit A** is hereby approved, and the Chair of the Agency is authorized and directed to execute the same for and on behalf of the Agency. The Chair is authorized to approve any minor modifications, amendments, or revisions to the Agreement as may be in the Agency’s best interest and in harmony with the overall intent and purpose of the Agreement, and the Chair’s signature upon the final Agreement will constitute the Agency Board’s acceptance of all such minor modifications, amendments, or revisions.

2. This resolution takes effect upon adoption.

THIS RESOLUTION IS APPROVED AND ADOPTED this February 2, 2022.



Attest:


Secretary


Chair

Exhibit A
Form of Agreement

PARTICIPATION AGREEMENT
by and between the
BOX ELDER COUNTY REDEVELOPMENT AGENCY
and
STEEL SOLAR II, LLC

THIS PARTICIPATION AGREEMENT (this “**Agreement**”) is entered into by and between the **BOX ELDER COUNTY REDEVELOPMENT AGENCY**, a political subdivision of the State of Utah (the “**Agency**”), and **STEEL SOLAR II, LLC**, a Delaware limited liability company (“**Participant**”), dated to be effective as of the ____ day of _____, 2022 (the “**Effective Date**”). The Agency and Participant may also be individually referred to as “**Party**” and collectively as “**Parties**”). The Parties hereby agree as follows:

1. SUBJECT OF AGREEMENT

1.1. Purpose of the Agreement

The purpose of this Agreement is to carry out in part the Steel Solar Project Community Reinvestment Project Area Plan, adopted on January 22, 2020, as amended by that certain Steel Solar Plan Amendment (the “**Plan Amendment**”) adopted on [_____] (collectively, the “**Plan**”) by incentivizing the construction and operation of a utility-scale solar power generation facility (the “**Facility**” or “**Project**”) within the Project Area (as defined in the Plan). Accordingly, this Agreement sets forth the terms and conditions pursuant to which the Agency will provide certain incentives in support of the development and operation of the Facility.

1.2. Agreement in the Best Interests of the County and Residents

This Agreement is in the best interests of Box Elder County (the “**County**”), and the health, safety and welfare of its residents, and in accord with public purposes. This Agreement is carried out pursuant to the Limited Purpose Local Government Entities – Community Reinvestment Agency Act, 17C *et seq*, Utah Code Annotated (and the predecessor Act in Title 17B of the Utah Code), as amended (the “**Act**”).

1.3. The Project Area

The Project Area is located within the boundaries of the County. The exact boundaries of the Project Area are specifically and legally described in the Plan.

1.1. The Project Area Budget

Pursuant to the Act, a Project Area Budget has been adopted by the Agency for the Project Area (the “**Project Area Budget**”), a copy of which is attached as **Exhibit A**.

1.2. The Project Area Plan

This Agreement is subject to the provisions of the Plan, as amended by the Plan Amendment adopted on [_____], by the Agency and the County Commission (the “**Commission**”) in accordance with the Act. The Plan and Plan Amendment are attached hereto as **Exhibit B**.

1.3. Description of the Site

The site of the Facility (the “**Site**”) consists of the portion of the Project Area, as may be amended by the Agency, in which Participant holds leasehold, easement or other property rights for purposes of the developing, owning and operating the Facility. Prior to requesting the first payment of Participant’s Tax Increment Share (as defined below), Participant shall provide documentation to the Agency confirming the boundaries of the Site and its location within the Project Area. Unless such documentation is provided by Participant, the Agency shall have no obligation to independently determine the boundaries of the Site.

1.4. Interlocal Agreements

On or before the Effective Date, the Agency has entered into separate interlocal agreements (collectively, the “**Interlocal Agreements**”) with various Taxing Entities (as defined in the Act) as follows:

- 1.4.1.** That certain Interlocal Cooperation Agreement between the Agency and the County, a copy of which is attached hereto as **Exhibit C**.
- 1.4.2.** That certain Interlocal Cooperation Agreement between the Agency and the Box Elder County School District, a copy of which is attached hereto as **Exhibit D**.
- 1.4.3.** That certain Interlocal Cooperation Agreement between the Agency and the Box Elder County Mosquito Abatement District, a copy of which is attached hereto as **Exhibit E**.
- 1.4.4.** That certain Interlocal Cooperation Agreement between the Agency and the Bear River Water Conservancy District, a copy of which is attached hereto as **Exhibit F**.

1.5. Parties to the Agreement

1.5.1. The Agency

The Agency is a public body, corporate and political, exercising governmental functions and powers, and organized and existing under the Act. The address of the Agency for purposes of this Agreement is:

Box Elder County Redevelopment Agency
1 South Main Street, Room 33
Brigham City, Utah 84302
Attn: Economic Development Director

With a copy to:

Box Elder County Attorney's Office
81 North Main Street, Suite 102
Brigham City, Utah 84302

1.5.2. Participant

Participant is Steel Solar II, LLC, a Delaware limited liability company, lawfully registered to do business in Utah. Participant's address for purposes of this Agreement is:

Steel Solar II, LLC
c/o D. E. Shaw Renewable Investments
1166 Avenue of the Americas, 9th Floor
New York, New York 10036
Attention: Hy Martin

1.6. No Additional Approvals

Upon the approval of this Agreement by the Agency, and the expiration of all statutory notice and contest periods, no additional legislative action is required for the Agency to perform its obligations hereunder.

1.7. Assignment

1.7.1. Restrictions on Assignment without Agency Consent

Except as permitted by Section 1.10.2 hereof, Participant agrees for itself and any successor in interest that during the term of this Agreement Participant shall not assign or transfer or attempt to assign or transfer all or any part of its obligations under this Agreement without the prior written consent of the Agency, which consent shall not be unreasonably withheld, conditioned or delayed. Any assignment in violation of this subsection is void. It is considered reasonable for the Agency to withhold its consent to a proposed assignment if any of the following are true (by way of example only and not as a limitation): (i) the Agency has prior negative experience with, or knowledge about, any of the principals or operators of the proposed assignee, (ii) the assignment would result in a material increase in administrative burden upon the Agency, or (iii) the proposed assignment would be only a partial assignment of

the Participant's rights under this Agreement. Participant shall give notice to the Agency of any proposed assignment and provide such information regarding the proposed assignee that the Agency may reasonably request, including, without limitation, the contact information for the proposed assignee.

1.7.2. Permitted Transfers

Notwithstanding the provisions of this Agreement to the contrary, Participant shall not be required to obtain the Agency's consent, and the Agency shall not be permitted to terminate this Agreement, in connection with the following transfers or the assignment of this Agreement pursuant to the following transfers: (a) transfers to any entity that acquires all or substantially all of the assets of or ownership interests in Participant or any other transfer occurring by operation of law; (b) transfers of less than a controlling interest in Participant or its parent(s); (c) transfers of interests in either the Project or Participant to an affiliate of Participant; (d) changes in the organizational form of Participant; (e) a transfer of the operational responsibilities of the Project to a third party; (f) subletting or licensing of the Project; (g) a sale and lease back or similar financing transaction of the Project; and (h) the granting of any lien, security interest, or other encumbrance upon the Project or the interests of Participant in the Project. In addition, Participant may transfer real and personal property in the Project Area and retain Participant's rights to receive Tax Increment under this Agreement. The term "affiliate" means, for purposes of this Section 1.10.2, the following with respect to any person or entity: another person or entity that directly or indirectly, through one or more intermediaries, has control of, is controlled by, or is under common control with, such person or entity. For these purposes, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management of the person or entity, whether through the ownership of voting securities, by contract or otherwise.

1.7.3. Continuing Obligations

Except for a transfer or assignment of this Agreement which has been consented to by the Agency or is expressly permitted under subsection 1.10.2, no assignment or transfer of this Agreement, any part hereof, any right herein, or approval hereof, by the Agency shall be deemed to relieve the assignor from any obligation under this Agreement. Upon the Agency's consent to an assignment of this Agreement (if such consent is required), the assigning Participant will be relieved of all obligations under this Agreement arising from and after the date of such assignment and the Agency shall look solely to the assignee for performance of the obligations under this Agreement from and after the date of such assignment. All of the terms, covenants, and conditions of this Agreement shall be binding upon and shall inure to the benefit of Participant and its permitted successors and assigns.

1.7.4. Payment of Tax Increment After Transfer

In the event that any portion of this Agreement is assigned or transferred as described in Sections 1.10.1 or 1.10.2, the Agency shall pay the entire Participant's Tax Increment Share (as defined in Section 2.2) to the person or entity that is a party to this Agreement following such assignment and is Participant for purposes of this Agreement as set forth in Section 2.1. In no event will the Agency, without the Agency's approval in its reasonable discretion, be obligated to pay the Participant's Tax Increment Share, or any portion of it, to multiple parties.

2. OBLIGATIONS OF THE PARTIES

2.1. Payment of Tax Increment

The Agency agrees that so long as Participant fulfills all of its obligations set forth herein, the Agency shall pay to Participant Participant's Tax Increment Share, as set forth in Section 2.2 below. The Agency shall make the contemplated Tax Increment payment(s) to Participant within thirty (30) days after the date(s) on which all of the conditions precedent as set forth in Section 2.3 have been met.

2.2. Tax Increment

The Plan and payments contemplated in this Agreement will be funded by Tax Increment as that phrase is defined and used in the Act in compliance with the provisions of the Act. "**Participant's Tax Increment Share**" means, for a period of twenty (20) years beginning on the date that the Tax Increment is first generated with respect to the Site and Facility (the "**Term**"), fifty-seven percent (57%) of the Tax Increment generated from the Site that is received by the Agency under the Interlocal Agreements, on an annual basis. Participant acknowledges that the Interlocal Agreements allow the Agency to receive one hundred percent (100%) of the Tax Increment generated within the Project Area (the "**Agency Share**") and that (i) the Agency is required to pay amounts equal to thirty percent (30%) of the Agency Share to the various Taxing Entities that are parties to the Interlocal Agreements, and (ii) the Agency is required under the Interlocal Agreements to allocate ten percent (10%) of the Agency Share toward affordable housing as described in Utah Code §17C-5-307(3), and (iii) the Agency is retaining a three percent (3%) administration fee from the Agency Share, which leaves fifty-seven percent (57%) of the Agency Share to be paid to Participant to incentivize the development of the Project. Regardless of the use of the Agency Share by the Agency, Participant's Tax Increment Share shall not be increased.

Participant's Tax Increment Share is expressly subject to and limited to the amounts available after the limitations and reductions described in this Agreement. The Agency must pay to Participant Participant's Tax Increment Share only to the extent that Tax Increment is actually generated from the Site and actually paid to and received by the Agency. Tax Increment from the Site received by the Agency is the only funding source available or obligated under this Agreement. Participant acknowledges and agrees that the Agency has no funds or revenue to

make payments under this Agreement other than the Tax Increment the Agency receives under the Interlocal Agreements. Notwithstanding any other provisions in this Agreement, Participant's Tax Increment Share shall not include tax revenue received from any currently-existing centrally-assessed property located within the Project Area as the Interlocal Agreements do not allow the Agency to receive tax increment generated by existing centrally-assessed property within the Project Area.

The Agency shall take the steps necessary under the Interlocal Agreements to begin collecting Tax Increment from the Site within the time frame set forth under by the Interlocal Agreements.

2.3. Conditions Precedent to the Payment of Participant's Tax Increment Share

In addition to other provisions in this Agreement, the Agency has no obligation to remit to Participant Participant's Tax Increment Share unless and until all the following conditions precedent, as detailed in the following subsections, are satisfied: (a) Participant has elected to construct the Facility and has actually completed construction and commenced operation of the Facility as provided in Section 2.9.2 below; and (b) Participant has paid or caused to be timely paid all personal property or real property taxes due for the Site and Facility for which Participant is seeking payment.

2.3.1. Agency is Entitled to Receive Tax Increment Payments

The Agency is not obligated to pay to Participant Participant's Tax Increment Share unless the Agency is legally entitled to receive the Tax Increment pursuant to the Interlocal Agreements. The Agency agrees to work in good faith with the Taxing Entities that have executed Interlocal Agreements to ensure that payment of the Tax Increment is timely made to the Agency.

2.3.2. Agency has Actually Received Tax Increment Payments

Despite anything in this Agreement to the contrary, the Agency is not obligated to pay to Participant any annual payment of Participant's Tax Increment Share unless the Agency has first received the annual Agency Share pursuant to the applicable Interlocal Agreement(s).

2.3.3. Appeals of Property Tax Assessments

Participant may at its cost and expense petition to have the assessed valuation of the Site and/or Facility reduced or may initiate proceedings to contest such property taxes, and Participant acknowledges that any reduction in assessed value of the property located in the Project Area will result in a corresponding reduction in Participant's Tax Increment Share. Regardless of whether Participant files an appeal to contest the value of its real or personal property, Participant shall pay the real and personal property taxes based on the assessed value.

Upon the final determination of any such proceeding or contest, Participant shall be paid a refund for any reduction in value or pay all property taxes due, together with interest and penalties properly assessed, if any. In the event the County Assessor, County Board of Equalization, Utah State Tax Commission or any lawful entity authorized by law to determine the personal property or real property taxes against the property within the Site adjusts the assessed or taxable value of such property through an appeal, an audit or similar action, Participant's Tax Increment Share shall be proportionately increased or decreased, which may result in a refund from Participant to the Agency, or an increased amount of Participant's Tax Increment Share from the Agency to Participant. Any such payment based on the change in personal property or real property taxes must be paid within thirty (30) days after the additional taxes are paid by Participant or refund for overpayment of taxes is received by Participant.

1.3.1. Payment by Agency of Participant's Tax Increment Share

The Agency will pay to Participant, once annually, Participant's Tax Increment Share within thirty (30) calendar days of the Agency's receipt from the Box Elder County Treasurer of the final payment of Tax Increment generated by the Site and/or Facility. For informational purposes, the Agency typically receives tax increment payments from the Box Elder County Treasurer in April for the preceding tax year.

2.4. Reduction of or Elimination of Tax Increment

Subject to Participant's rights in the immediately following sentence, if the provisions of Utah law which govern the payment of Tax Increment to the Agency are changed or amended so as to reduce or eliminate the amount paid to the Agency under the Interlocal Agreements, the Agency's obligation to pay Participant Participant's Tax Increment Share, as applicable, will be proportionately reduced or eliminated. Notwithstanding any change in law, Participant specifically reserves and does not waive any right it may have to challenge, at Participant's sole cost and expense, the constitutionality of any law change(s) that would reduce or eliminate the payment of Tax Increment to the Agency and/or Participant's Tax Increment Share and nothing herein shall be construed as an estoppel, waiver or consent to reduce or eliminate payment of Tax Increment to the Agency and/or Participant's Tax Increment Share. Participant acknowledges, understands, and agrees that the Agency is under no obligation to challenge the validity, enforceability, or constitutionality of a change in law that reduces or eliminates the payment of Tax Increment to the Agency and/or Participant's Tax Increment Share, or to otherwise indemnify or reimburse Participant for its actions to independently do so; provided, the Agency will not oppose Participant, and, if requested by Participant, Agency will cooperate with Participant, if Participant challenges a change in the law that reduces or eliminates the payment of Tax Increment to the Agency. Except as set forth herein, the Agency is under no further obligation with respect to the Participant's efforts to challenge a change in the law. Participant agrees that Agency may utilize the Participant's Tax Increment Share as necessary to pay for such cooperation, and that any out-of-pocket or third-party costs incurred by the Agency in

connection with providing such cooperation will be deducted from amounts otherwise payable to the Participant; provided, however, Participant and Agency shall mutually agree on the scope, nature, and rates charged by such third-parties. In the event any change in law invalidates the Tax Increment provided in support of the Project, Participant is hereby released from any and all obligations made by Participant to the Agency. For further clarity, Participant at its sole and exclusive discretion may, without penalty, terminate this Agreement if any change in law invalidates Participant's right to receive all or any portion of the Tax Increment Reimbursement. For purposes of this Section 2.4 and Section 2.5 below, the Agency's agreement to cooperate means the Agency agrees to (i) provide to Participant information requested by Participant that is in the Agency's possession, control, or custody; (ii) defend against any legal action seeking specific performance, declaratory relief or injunctive relief that would have the effect of impairing or reducing the payment of the Participant's Tax Increment Share, (iii) set court dates at the earliest practicable date(s), (iv) testify on behalf of Participant consistent with the terms, intent and purposes of this Agreement, (v) to provide access to information and data necessary to defend against such action, and (vi) not cause delay in the prosecution/defense of the action, provided such cooperation shall not require any Party to waive any rights against the other Party.

2.5. Declaration of Invalidity

In the event a court of competent jurisdiction after final adjudication (by the highest court to which the matter may be appealed) (i) declares that the Agency cannot receive Tax Increment or reimburse Participant from Tax Increment funds as provided in this Agreement, (ii) invalidates the Project Area, or (iii) takes any other action that eliminates or reduces the amount of Tax Increment paid to the Agency, the Agency's obligation to pay Participant's Tax Increment Share to Participant hereunder shall be accordingly reduced or eliminated. Participant specifically reserves and does not waive hereunder any right it may have to challenge a ruling, decision or order by any court that would reduce or eliminate the payment of Tax Increment to the Agency. Participant acknowledges, understands and agrees that the Agency is under no obligation to challenge a ruling, decision or order by any court that reduces or eliminates the payment of Tax Increment to the Agency; provided, the Agency will not oppose Participant and, if requested by Participant, will cooperate with Participant if Participant challenges a ruling by any court. Cooperation by the Agency means the Agency will provide to the Participation information requested by the Participation that is in the possession, control, or custody of the Agency; the Agency is under no further obligation with respect to the Participant's efforts to challenge a court ruling, except as otherwise required by applicable law. Additionally, if any court invalidates the Plan or Project Area Budget as a result of a procedural defect, the Agency shall take such actions as are necessary to correct such procedural defect and adopt the Plan and Project Area Budget. Participant agrees that Agency may utilize the Agency Share as necessary to pay for such cooperation. In the event any court invalidates the Tax Increment provided in support of the Project, Participant is hereby released from any and all obligations made by Participant to the Agency. For further clarity, Participant at its sole and exclusive discretion may,

without penalty, terminate its obligations under this Agreement if any court invalidates Participant's right to receive all or any portion of Participant's Tax Increment Share.

2.6. New Taxes

The Agency agrees that if any Taxes (defined as taxes levied on an *ad valorem* basis upon land, real property improvements, personal property, or any other property within the Project Area), other than special assessments assessed against all property within an assessment district in accordance with the special benefits conferred upon the property and not in excess of such benefits as provided for under applicable law, but including levies, imposts, franchise fees or taxes, duties, deductions, withholdings, and similar charges, are enacted during the term of this Agreement and by applicable law are allowed to be used as Project Area Funds (the "**New Taxes**"), the Agency shall request that the applicable Taxing Entity(ies) amend the Interlocal Agreements to include such New Taxes and, if such amendment is made to the Interlocal Agreements, the Agency shall make an economic development payment to Participant equal to all such New Taxes for the duration of the term of this Agreement to the fullest extent the Agency is legally able to do so pursuant to the Act (and any such "economic development payment" will be considered an additional payment of Participant's Tax Increment Share for all purposes under this Agreement). The Agency shall not consent to an amendment or modification of any existing Taxes so as to cause them to first become applicable to the Project Area or Participant (including without limitation any materials purchased for use in connection with the construction, repair, replacement or replenishment of any materials or equipment used for the Project (collectively, "**Equipment**") after the Effective Date, and if existing Taxes are so amended or modified, the Agency shall seek to amend the Interlocal Agreements to include such Taxes and will make economic development payments equal to all such Taxes to Participant to the fullest extent the Agency is legally able to do so. The Agency will not consent to any increase in the applicable rate, as of the Effective Date, of any Tax affecting the Project Area unless such increase is pursuant to, and in proportion with, an across-the-board increase in all rates for such Tax.

2.7. Central Assessment

In the event of any change in law, or if the type of real property or personal property used by Participant results in Taxes not being assessed by a Taxing Entity which has agreed to pay such Taxes to the Agency pursuant to an Interlocal Agreement, the Agency shall use all commercially reasonable efforts to enter into Interlocal Agreements with the governmental agency responsible for assessing such Taxes, to the extent necessary, to cause all Tax Increment payable with respect to the real property and personal property located in the Project Area to be payable to the Agency and then to Participant on the terms set forth herein.

2.8. Dispute Over Agreement

In the event a dispute arises with respect to this Agreement, the prevailing party shall be entitled to any reasonable costs and expenses, including reasonable attorneys' fees, incurred related to the dispute.

2.9. Participant's Obligations; Limitations

To qualify to receive Participant's Tax Increment Share as set forth herein, Participant shall fulfill all of its obligations as set forth in this Agreement, including, without limitation, the obligations set forth in this Section 2.9. Notwithstanding anything to the contrary herein, Participant's fulfillment of the obligations contained in this Section 2.9 shall be at the sole discretion of Participant and Participant's failure to construct or operate the Facility as contemplated in this Section 2.9 shall not constitute a default hereunder but such failure shall constitute a failure of a condition to the Agency's obligation to make a payment of the Tax Increment to Participant.

2.9.1. Construction of the Facility

Participant shall use commercially reasonable efforts to construct the Facility and improve the Site as contemplated by the Plan.

2.9.2. Operation of the Facility

Following completion of construction, Participant shall operate the Site and Facility as a utility-scale solar energy generation project as contemplated by the Plan. For purposes of this Agreement, Participant shall be deemed to have continuously operated the Facility notwithstanding temporary or intermittent cessation of operations for inspection, maintenance, repair, replacement, curtailment, and/or events of force majeure.

2.9.3. Commencement of Operations

Such operations as described in Section 2.9.2 are anticipated to begin on or around March 31, 2024 (the "**Commercial Operations Date**"). If such operations commence, or are reasonably anticipated to commence, after the Commercial Operations Date for any reason, Participant shall provide written notice of such delay to the Agency. For purposes of this section, the Facility shall be deemed to be in operation on the date that electrical energy is being generated by photovoltaic solar panels and available to be sold.

2.10. Funding Responsibility

The Parties understand and agree that the Agency shall not be liable or responsible for providing, obtaining, or guaranteeing any financing for the construction of the Facility or other improvements.

2.11. Agency's Encumbrance of Tax Increment

The Agency agrees that it shall not, without the prior written consent of Participant, issue any bonds or other indebtedness that may be secured by Tax Increment which are payable senior to or have priority over any obligation of the Agency to reimburse Participant for amounts due hereunder from Participant's Tax Increment as provided in this Agreement.

3. OPERATION AND DEVELOPMENT OF THE SITE

3.1. Development of the Facility

The Agency shall have no responsibility for the development and operation of the Facility, which shall be the sole responsibility of Participant. Recognizing the level of capital investment by Participant in the development of the Facility, the Agency has determined that it is in the best interests of the residents of the County to provide Tax Increment to Participant as an incentive to undertake the development and continued operation of the Facility as contemplated in this Agreement and in the Plan.

3.2. Responsibility for Development Plans and Permits

Participant is solely responsible for preparing, or causing to be prepared, all plans and securing all permits for the development of the Facility. For the avoidance of doubt, in the event Participant elects to develop the Facility, Participant, but not the Agency, shall be responsible for preparing and completing any plans for the construction of the Facility.

3.3. Discrimination

Participant agrees for itself and its successors and assigns that it will not unlawfully discriminate against any employee or applicant for employment, or any contractor or any bidder on any contract.

3.4. Rights of Access

Representatives of the Agency shall have the right of reasonable access to the Site and any and all improvements thereon, including the Facility, for purposes of inspection, with reasonable and prior notice, and without charges or fees, at normal hours. Such representatives of the Agency and other visitors to the Site shall observe any rules, regulations or protocols adopted by Participant for purposes of maintaining safety and security on the Site, including requirements that such representatives or visitors be escorted by the general manager or other designated agent of Participant at all times. Such representatives of the Agency shall be those who are so identified in writing by the Agency. The Agency agrees to and shall indemnify and hold Participant harmless from and against all liabilities, losses, damages, costs, or expenses arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person resulting from or arising out of the Agency's entry upon or activities on the Site, except that this indemnity shall not apply to proportional negligence or willful misconduct of Participant.

3.5. Responsibility of the Agency

The Agency shall not have any obligation under this Agreement other than those specifically provided for herein. Nothing herein shall be construed as requiring the Agency to pre-approve or prejudge any matter, or as otherwise binding the Agency's discretion or judgment on any issue prior to an appropriate hearing (if required), review, or compliance with any other requirement.

4. EFFECT AND DURATION OF COVENANTS; TERM OF AGREEMENT

The covenants, including but not limited to conformance with federal, local, and state laws, established in this Agreement shall, without regard to technical classification and designation, be binding on Participant for the benefit and in favor of the Agency and the Agency's successors and assigns during the term of this Agreement, which shall terminate upon the final Tax Increment payment as set forth in Article 2 of this Agreement, or expiration of the Plan, whichever occurs first.

5. DEFAULTS, REMEDIES AND TERMINATION

5.1. Default

If either the Agency or Participant fails to perform or delays performance of any material term or provision of this Agreement, such conduct not cured within the applicable cure period set forth in this Section 5 constitutes a default of this Agreement ("**Default**"). The Party in default shall immediately commence to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy within the periods provided in Section 5.3 hereof.

5.2. Notice

If a Default under this Agreement occurs, the non-defaulting Party shall give written notice (a "**Default Notice**") of the Default to the defaulting Party, specifying the nature of the Default. Failure or delay in giving such notice shall not constitute a waiver of any Default, nor shall it change the time of Default, nor shall it operate as a waiver of any rights or remedies of the non-defaulting Party; but the non-defaulting Party shall have no right to exercise any remedy hereunder without delivering the Default Notice as provided herein. Delays by either Party in asserting any of its rights and remedies shall not deprive the other Party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert, or enforce any such rights or remedies.

5.3. Cure Period

The non-defaulting Party shall have no right to exercise a right or remedy hereunder unless the subject Default continues uncured for a period of one hundred eighty (180) days after delivery of the Default Notice with respect thereto, or, where the Default is of a nature which

cannot be cured within such hundred eighty (180) period, the defaulting Party fails to commence such cure within hundred eighty (180) days and to diligently proceed to complete the same. A Default which can be cured by the payment of money is understood and agreed to be among the types of defaults which can be cured within thirty (30) days. If the Default is not cured, or commenced to be cured if such Default is of a nature which cannot be cured within hundred eighty (180) days, by such Party within hundred eighty (180) days of delivery of the Default Notice, the non-defaulting Party, at its option, may pursue such rights and remedies as it may have under this Agreement, at law or in equity.

5.3.1. Rights and Remedies

Upon the occurrence of a Default (following the expiration of the applicable cure period provided herein or by law), the non-defaulting Party shall have all rights and remedies against the defaulting Party as may be available at law or in equity to cure, correct or remedy any Default, to terminate this Agreement, to recover damages for any default, or to obtain any other remedy consistent with the purposes of this Agreement. In the case of a Default by Participant, the Agency may seek to recover damages in an amount not to exceed the amount of Participant's Tax Increment actually received by Participant. Such rights and remedies are cumulative, and the exercise of one or more of such rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same Default or any other Default by the defaulting Party.

5.3.2. Legal Actions

5.3.2.1. Venue

All legal actions between the Parties, arising under this Agreement, shall be conducted exclusively in the District Court for the State of Utah located in Box Elder County, unless they involve a case with federal jurisdiction, in which case they shall be conducted exclusively in the Federal District Court for the District of Utah.

5.3.2.2. Service of Process

Service of process on the Agency shall be made by personal service upon the Chairman or Executive Director of the Agency or in such other manner as may be provided by law.

Service of process on Participant shall be by personal service upon its Registered Agent, or in such other manner as may be provided by law, whether made within or without the State of Utah.

5.3.2.3. Applicable Law

The laws of the State of Utah shall govern the interpretation and enforcement of this Agreement.

5.3.2.4. Waiver of Jury Trial

Each Party hereto hereby irrevocably waives any and all rights it may have to demand that any action, proceeding or counterclaim arising out of or in any way related to this Agreement be tried by jury. This waiver extends to any and all rights to demand a trial by jury arising from any source, including but not limited to the Constitution of the United States, the Constitution of any state, common law or any applicable statute or regulation. Each Party hereby acknowledges that it is knowingly and voluntarily waiving the right to demand trial by jury.

5.3.2.5. Early Termination by Participant

Participant may at any time elect to terminate this Agreement by providing written notice to Agency, in which event, this Agreement shall terminate as of the date of the delivery of such notice to Agency, and in which case the Agency will have no further obligations of any kind to the Participant arising from and after the date of termination.

6. GENERAL PROVISIONS

6.1. Authority

Each Party hereby represents and warrants to the other that the following statements are true, complete, and not misleading as regards the representing and warranting party: (a) such Party has full authority to enter into this Agreement and to perform all of its obligations hereunder; (b) those executing this Agreement on behalf of each Party do so with the full authority of the Party each represents; (c) this Agreement constitutes a legal, valid, and binding obligation of each Party, enforceable in accordance with its terms.

6.2. Notices, Demands, and Communications between the Parties

Formal notices, demands, and communications between the Agency and Participant shall be sufficiently given if personally delivered or if dispatched by registered or certified mail, postage prepaid, return-receipt requested, to the principal offices of the Agency and Participant, as designated in Sections 1.8.1 and 1.8.2 hereof. Such written notices, demands, and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by formal notice hereunder. Delivery of notice shall be complete upon mailing or making physical delivery of the writing containing the notice.

6.3. Severability

In the event that any condition, covenant or other provision herein contained is held to be invalid or void by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect any other covenant, condition, or provision herein contained unless such severance shall have a material effect on the terms of this Agreement. If such condition, covenant or other provision shall be deemed invalid due to its

scope, all other provisions shall be deemed valid to the extent of the scope or breadth permitted by law.

6.4. Nonliability of Agency Officials and Employees

No director, officer, agent, employee, representative, contractor, attorney or consultant of the Agency shall be personally liable to Participant, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to Participant or to its successor, or on any obligations under the terms of this Agreement. No director, officer, agent, employee, representative, contractor, attorney or consultant of Participant shall be personally liable to the Agency, or any successor in interest, in the event of any default or breach by Participant or for any amount which may become due to Agency or to its successor, or on any obligations under the terms of this Agreement.

6.5. Enforced Delay; Extension of Time and Performance

In addition to the specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or Defaults are due to war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; acts of a public enemy; terrorist activity; epidemics; quarantine restrictions; freight embargoes; lack of transportation; governmental restrictions or priority; litigation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or suppliers; acts of the other Party; or any other causes beyond the control or without the fault of the Party claiming an extension of time to perform. An extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the Party claiming such extension is sent, whether on the part of the Agency's Executive Director or its governing board or on the part of Participant, to the other Party within thirty (30) days of actual knowledge of the commencement of the cause. Time of performance under this Agreement may also be extended in writing by the Agency and Participant by mutual agreement.

6.6. Approvals

Whenever the consent or approval is required of any Party hereunder, except as otherwise herein specifically provided, such consent or approval shall not be unreasonably withheld or delayed, and shall be in writing.

6.7. Time of the Essence

Time shall be of the essence in the performance of this Agreement.

6.8. Interpretation

The Parties hereto agree that they intend by this Agreement to create only the contractual relationship established herein, and that no provision hereof, or act of either Party hereunder, shall be construed as creating the relationship of principal and agent, or a partnership, or a joint venture or enterprise between the Parties hereto. Neither Party shall be deemed the drafter of this Agreement.

6.9. No Third-Party Beneficiaries

It is understood and agreed that this Agreement shall not create for either Party any independent duties, liabilities, agreements, or rights to or with any third party, nor does this Agreement contemplate or intend that any benefits hereunder accrue to any third party.

6.10. Incorporation of Exhibits

All exhibits attached hereto are incorporated into this Agreement as if fully set forth herein.

7. DUPLICATION, INTEGRATION, WAIVERS, AND AMENDMENTS

7.1. Duplicate Originals; Electronic Signatures

This Agreement may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures and scanned versions of this executed Agreement shall be deemed original counterparts of this Agreement.

7.2. Integration

This Agreement (including its exhibits) constitutes the entire understanding and agreement of the Parties. When executed by the Parties, this Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the Site.

7.3. Waivers and Amendments

All waivers of the provisions of this Agreement must be in writing. This Agreement and any provisions hereof may be amended only by mutual written agreement between Participant and the Agency.

8. MORTGAGEE PROTECTIONS; ESTOPPEL

8.1. No Limitation on Encumbrances

The Parties hereto agree that this Agreement shall not prevent or limit Participant from encumbering the Project or any estate or interest therein, portion thereof, or any improvement thereon, in any manner whatsoever by one or more mortgages, deeds of trust, sale and leaseback, or other form of secured financing (“**Mortgage**”) with respect to the construction, development,

use or operation of the Project and parts thereof. The Agency acknowledges that the lender(s) providing such Mortgages may require certain interpretations and modifications to this Agreement and the Agency agrees, upon request, from time to time, to respond to any such request for interpretation or modification. The Agency agrees to reasonably consider any reasonable request from a lender to modify this Agreement so long as the requested modification is consistent with the intent and purposes of this Agreement.

8.2. No Obligations of Mortgagee

Notwithstanding any of the provisions of this Agreement to the contrary, the holder of a Mortgage (a “**Mortgagee**”) shall not have any obligation or duty pursuant to the terms set forth in this Agreement to perform the obligations of Participant or other affirmative covenants of Participant hereunder, or to guarantee such performance.

8.3. Notices to Mortgagee

The Mortgagee of any Mortgage or deed of trust encumbering the Project, or any part or interest thereof, that has submitted a request in writing to the Agency in the manner specified herein for giving notices shall be entitled to receive written notification from the Agency of any notice of non-compliance by Participant in the performance of Participant’s obligations under this Agreement. If the Agency timely receives a request from a Mortgagee requesting a copy of any notice of non-compliance given to Participant under the terms of this Agreement, the Agency shall use commercially reasonable efforts to provide a copy of that notice to the Mortgagee within twenty-one (21) days of sending the notice of non-compliance to Participant. The Mortgagee shall have the right, but not the obligation, to cure the non-compliance for a period of ninety (90) days after the date of commencement of non-compliance, regardless of if or when Mortgagee actually receives such written notice.

8.4. New Agreement After Default

If this Agreement is terminated as to any portion of the Project by reason of (i) any Default or (ii) as a result of a bankruptcy proceeding of Participant, or if this Agreement is disaffirmed by a receiver, liquidator, or trustee for Participant or its property, the Agency, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new Participation Agreement for the Project as to such portion of the Project with the most senior Mortgagee requesting such new agreement.

8.5. Estoppel Certificates

At any time, and from time to time (but not more than four (4) time per year), Participant may deliver written notice to the Agency, and the Agency may deliver written notice to Participant, requesting that such Party certify in writing that, to the knowledge of the certifying Party each of the following (if true): (i) this Agreement is in full force and effect and a binding

obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, (iii) the requesting Party is not then in breach of this Agreement, or if in breach, a description of each such breach, and (iv) any other factual matters reasonably requested (an “**Estoppel Certificate**”). The Executive Director of the Agency shall be authorized to execute, on behalf of the Agency, any Estoppel Certificate requested by Participant which complies with this Section 8.5 within fifteen (15) days, or such amount of time as is reasonably required by the Executive Director considering the circumstances, of a written request for such Estoppel Certificate. The Agency’s failure to furnish an Estoppel Certificate within thirty (30) days after request therefor shall be conclusively presumed that: (a) this Agreement is in full force and effect without modification in accordance with the terms set forth in the request; and (b) that there are no breaches or defaults on the part of Participant. The Agency acknowledges that an Estoppel Certificate may be relied upon by transferees or successors in interest to Participant and by Mortgagees holding an interest in the Property.

9. CONFIDENTIALITY

9.1. Information Maintained Confidential

The Parties acknowledge and agree that this Agreement shall become a public record under Utah law, and that discussion regarding this Agreement shall take place before the Agency board in open session. The Agency will, to the extent legally permissible, hold all information obtained by it, or any person employed by or representing the Agency, related to Participant’s business in strictest confidence and the Agency will not disclose, divulge or otherwise communicate in any manner to any person or entity, other than to those parties necessary to verify compliance with this Agreement, provided that such Parties are likewise under reasonable confidentiality obligations and not subject to public disclosure unless otherwise required by applicable laws. Despite any of the foregoing, however, the parties acknowledge that as a political subdivision of the State of Utah the Agency is under certain statutory limitations regarding confidentiality and nothing in this Agreement will be interpreted to contradict any applicable law.

9.2. Protection of Confidential Business Information

Participant may designate any trade secrets or confidential business information included in any report or other writing delivered to the Agency pursuant to or in connection with this Agreement by any method intended to clearly set apart the specific material that Participant claims to be either its trade secrets or confidential business information that, if released, would give an advantage to competitors of Participant and serve no public purpose (such information, collectively, “**Confidential Business Information**”). Only to the extent permissible under applicable law, the Agency shall redact or delete from any records it makes available for inspection or of which it provides copies any material designated by Participant as Confidential Business Information. Promptly following the Agency’s receipt of any request to provide copies


of public records relating to this Agreement or the Project or for inspection of the same by any third party, the Agency shall give written notice and a copy of such request to Participant. Except as may be otherwise required by applicable law, the Agency shall not allow inspection or provide copies of any such records until the Participant shall have had not less than five business days excluding the day of receipt to determine whether to contest the right of any party to inspect or receive copies of the records or to inspect such records without redaction of the Confidential Business Information. The costs, damages, if any, and attorneys' fees in any proceeding commenced by Participant or at its request by the Agency to prevent or enjoin the release of Confidential Business Information in any public records relating to this Agreement or the Project shall be borne by Participant. Despite any of the foregoing, however, the parties acknowledge that as a political subdivision of the State of Utah the Agency is under certain statutory limitations regarding confidentiality and nothing in this Agreement will be interpreted to contradict any applicable law.

[Remainder of page intentionally left blank; signature pages follow]

**BOX ELDER COUNTY REDEVELOPMENT
AGENCY**

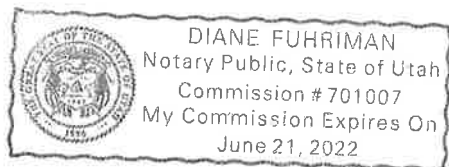
By: Jeffrey D. Scott, Chair

Attest:


Marla R. Young
RDA, Secretary

STATE OF UTAH)
 : ss.
COUNTY OF BOX ELDER)

In the County of Box Elder, State of Utah, on this 2 day of February, 2022, before me, the undersigned notary, personally appeared Jeffrey D. Scott and Marla R. Young, the Chair and the Secretary, respectively, of the Box Elder County Redevelopment Agency, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary and on behalf of the Box Elder County Redevelopment Agency by authority of its Board of Directors.



Diane Fuhrman
Notary signature and seal

STEEL SOLAR II, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF NEW YORK)
 : ss
COUNTY OF _____)

On this _____ day of _____ in the year 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

Exhibit A

Project Area Budget

Exhibit B

Project Area Plan

Exhibit C

County Interlocal Agreement

Exhibit D

Box Elder County School District Interlocal Agreement

Exhibit E

Mosquito Abatement District Interlocal Agreement

Exhibit E

Bear River Water Conservancy District Interlocal Agreement

FIRST AMENDMENT TO PARTICIPATION AGREEMENT

This FIRST AMENDMENT TO PARTICIPATION AGREEMENT (this “***Amendment***”) is dated to be effective as of _____, 2022, by and between **STEEL SOLAR, LLC**, a Delaware limited liability company (“**Participant**”), and **BOX ELDER COUNTY REDEVELOPMENT AGENCY**, a political subdivision of the State of Utah (the “**Agency**”). Participant and Agency are parties to that certain Participation Agreement, dated as of May 6, 2020 (as amended, the “***Agreement***”). The Parties now desire to amend the Agreement as follows:

1. **Description of the Site.** The Agreement is hereby amended to modify the definition of the “Site” to mean “the portion of the Project Area, as may be amended by the Agency, in which Participant holds leasehold, easement or other property rights for purposes of the developing, owning and operating the Facility.” Prior to requesting the first payment of Participant’s Tax Increment Share (as defined in the Agreement), Participant shall provide documentation to the Agency confirming the boundaries of the Site and its location within the Project Area (as defined in the Agreement). Unless such documentation is provided by Participant, the Agency shall have no obligation to independently determine the boundaries of the Site. All references to the “Site” in the Agreement shall mean and refer to the definition of the Site as provided by this **Section 1.**

2. **Notice Address.** Section 1.8.2 of the Agreement is hereby amended to replace Participant’s notice address as follows:

Steel Solar, LLC
c/o D. E. Shaw Renewable Investments
1166 Avenue of the Americas, 9th Floor
New York, New York 10036
Attention: Hy Martin

3. **Consistency.** Except as set forth in this Amendment, the Agreement shall remain unchanged and in full force and effect. In the event of any inconsistency between the provisions of this Amendment and the Agreement, the provisions of this Amendment will prevail.

4. **Counterparts/Signatures.** This Amendment may be executed in duplicate originals, each of which shall be deemed an original. Electronic pdf signatures shall be considered original signatures and scanned versions of this executed Amendment shall be deemed original counterparts of this Amendment.

[Remainder of page intentionally left blank; signature pages follow]

IN WITNESS WHEREOF, the Agency has executed this Amendment as of the date first set forth above.



Attest:

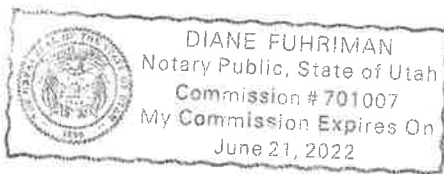
Marla Young
RDA, Secretary

**BOX ELDER COUNTY REDEVELOPMENT
AGENCY**

By: Jeff Scott, Chair

STATE OF UTAH)
 : ss.
COUNTY OF BOX ELDER)

In the County of Box Elder, State of Utah, on this 2nd day of February, 2022, before me, the undersigned notary, personally appeared Jeff Scott and Marla Young the Chair and the Secretary, respectively, of the Box Elder County Redevelopment Agency, who are personally known to me or who proved to me their identities through documentary evidence to be the persons who signed the preceding document in my presence and who swore or affirmed to me that their signatures are voluntary and on behalf of the Box Elder County Redevelopment Agency by authority of its Board of Directors.



Diane Fuhrman
Notary signature and seal

Signature Page to First Amendment to Participation Agreement (Steel Solar)

IN WITNESS WHEREOF, Participant has executed this Amendment as of the date first set forth above.

STEEL SOLAR, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

STATE OF NEW YORK)
 : ss
COUNTY OF _____)

On this _____ day of _____ in the year 2022, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

Signature Page to First Amendment to Participation Agreement (Steel Solar)