



# KANE COUNTY

BATES, Wojnicki, Allan, Kious, Molina, Strathmann, Wallace, ex-officios Pierog  
(County Chair) and Shepro (County Vice Chair)

## ENERGY AND ENVIRONMENTAL COMMITTEE

FRIDAY, AUGUST 13, 2021

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County Board Room

Agenda

9:00 AM

Kane County Government Center, 719 S. Batavia Ave., Bldg. A, Geneva, IL 60134

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1. **Call to Order**
2. **Approval of Minutes: July 16, 2021**
3. **Public Comment**
4. **Environmental (J. Wollnik)**
  - A. Presentation: Lead in Homes with Domestic Wells - Walt Kelly, Illinois State Water Survey
5. **Recycling/Solid Waste (J. Jarland)**
  - A. Discussion: Recycling Update
6. **Sustainability (I. Klee)**
  - A. **Resolution:** Approving a Purchase Power Agreement and Lease for Solar Energy with GRNE Solarfield 05, LLC
7. **New Business**
8. **Reports Placed on File**
9. **Executive Session (If Needed)**
10. **Adjournment**

# Lead in Homes with Domestic Wells in Three Illinois Counties

Walt Kelly  
Sarah Geiger  
Dave Jacobs  
Saria Awadalla  
Jonathan Bressler  
Sam Dorevitch



Funding by:



# Domestic Wells and Lead

- Lead and Copper rule: If Pb exceeds 15 ppb in > 10% of customer taps sampled, the system must undertake actions to control corrosion
- In Illinois (and most states), domestic well water quality is not regulated: the owner and user is responsible for making sure water is safe to drink and the system is maintained
- Studies in several states (VA, PA, WI, NC) suggest a significant number of homes with domestic wells may have elevated Pb levels in tap water



# Sources of Lead into Well Water

- Lead pipes are typically worst contributor; banned in 1986
- Lead solder used to join copper pipes (50% lead, 50% tin until 1986)
- Brass components such as faucets, coolers, and valves
  - Could be 8% Pb until 2012
  - Pipe and plumbing fittings and fixtures installed in potable water-supply systems after January 2014 must contain no more than 0.25% lead
  - Especially an issue during the first few months of use



# Sources of Lead in Wells

- Lead "packers" above the well screen may have been used in wells that were drilled over 20 years ago
- Some submersible pumps manufactured before 1995 may contain leaded-brass components
- Galvanized metal (zinc & lead coating)
  - Has a minimum lead requirement
  - Forms iron scale that can sorb lead (particulates)
  - Well casing, drop pipe for pump, premise plumbing, fittings



# Water Quality Factors Affecting Release of Lead

- pH and Alkalinity
- Chloride and Sulfate

Main factors for determining corrosivity

- Hardness (Calcium and Magnesium)
- Dissolved Oxygen
- Oxidation Reduction Potential
- Natural Organic Matter
- Iron, Aluminum, Ammonia
- Temperature

# Corrosivity Measurements used in this Study

- Larson-Skold Index (LSI):

$$\bullet \bullet \bullet = \frac{(\bullet \bullet \bullet \bullet \bullet \bullet \bullet \bullet \bullet \bullet \bullet \bullet \bullet \bullet)}{(\bullet \bullet \bullet \bullet \bullet \bullet \bullet)}$$

$\bullet \bullet \bullet$  = equivalents per million

- Chloride-Sulfate mass ratio (CSMR)

# Lead in Water in Homes with Domestic Wells in Illinois: Pilot Study

- 3 counties: Jackson, Peoria, Kane, with 151 participants
- Focused on older homes (pre-1986)
- Phase I: sample at the tap, 1<sup>st</sup> liter (first draw) and 7<sup>th</sup> liter (flushed)
  - Analyze for Pb (total in all, dissolved in subset) and corrosivity (alkalinity, chloride, sulfate)
  - Questionnaire for well owners
- Phase II: re-sample homes with highest hits, collect well water sample
  - Pb and Cu analysis at tap
  - Complete inorganic chemistry for well water including field parameters





# Questionnaire: People

Question/Item	Total (N)	Total (%)
Awareness of Flint, MI	138	93.2
Concern about Flint, MI	32	21.6
Aware water is possible Pb source	95	64.2
Ever tested water for Pb	14	9.5
Previous positive Pb water result	1	0.7
Use infant formula	21	14.2



# Questionnaire: Well and Home Characteristics

Question/Item	Total (N)	Total (%)
Drilled	86	58.1
Sandpoint	1	0.7
Bored	8	5.4
Dug	4	2.7
Other	1	0.7
Don't know	47	31.8

Question/Item	Total (N)	Total (%)
Aware of Pb in well/plumbing	26	17.6
Pre-1986 well	78	52.7
Pre-1986 home	92	62.2
Well upkeep < \$100 per year	131	88.5

# Total Water Lead Levels in Phase I Sampling

County	Sample	Number of samples	Detectable Pb (> 0.76 µg/L)	Pb > 15 µg/L	Maximum value (µg/L)
Jackson	1 <sup>st</sup> liter	38	20	2	76.2
	7 <sup>th</sup> liter	38	11	0	3.93
Kane	1 <sup>st</sup> liter	62	27	2	47.0
	7 <sup>th</sup> liter	62	8	0	3.37
Peoria	1 <sup>st</sup> liter	51	26	1	15.4
	7 <sup>th</sup> liter	51	15	0	5.00
Total	1 <sup>st</sup> liter	151	73	5	76.2
	7 <sup>th</sup> liter	151	34	0	5.00

# Corrosivity Data for Phase I Sampling

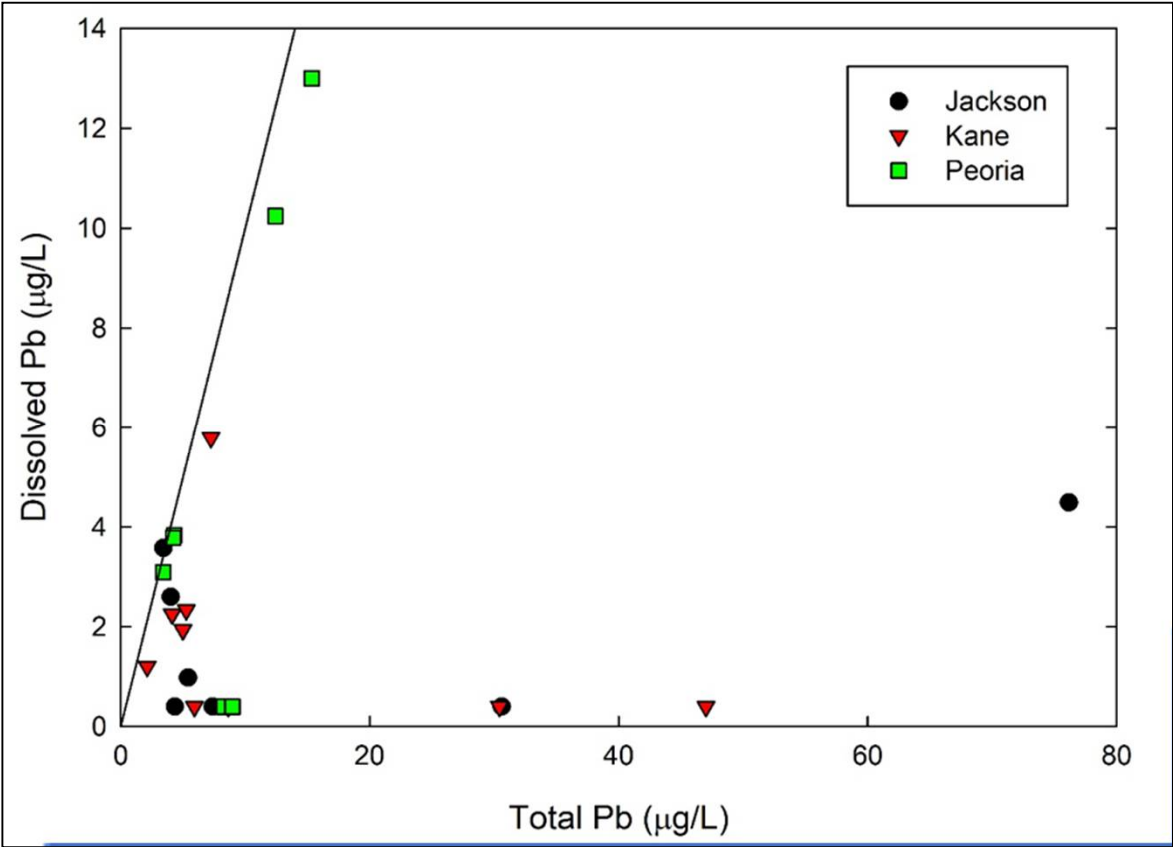
County	Alkalinity (mg CaCO <sub>3</sub> /L)			Chloride (mg/L)			Sulfate (mg/L)		
	Median	Min.	Max.	Median	Min.	Max.	Median	Min.	Max.
Jackson	305	65	726	8.9	2.7	1022	37.3	< 0.21	319
Kane	356	148	581	39.2	0.8	515	19.1	< 0.21	192
Peoria	385	197	1222	28.6	0.6	1337	33.6	< 0.21	710

County	Larson-Skold Index				CSMR	
	Median	% Low (< 0.8)	% Intermed. (0.8 – 1.2)	% High (> 1.2)	Median	% > 0.6
Jackson	0.22	79.0	7.9	13.2	0.32	29.0
Kane	0.28	80.7	14.5	4.8	4.69	93.6
Peoria	0.25	80.0	10.0	10.0	1.62	70.0

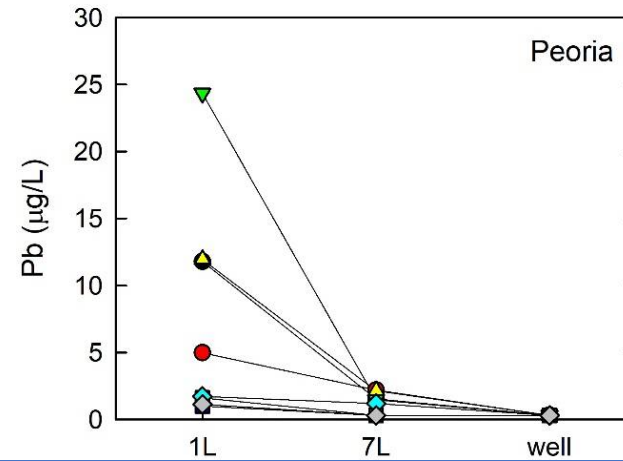
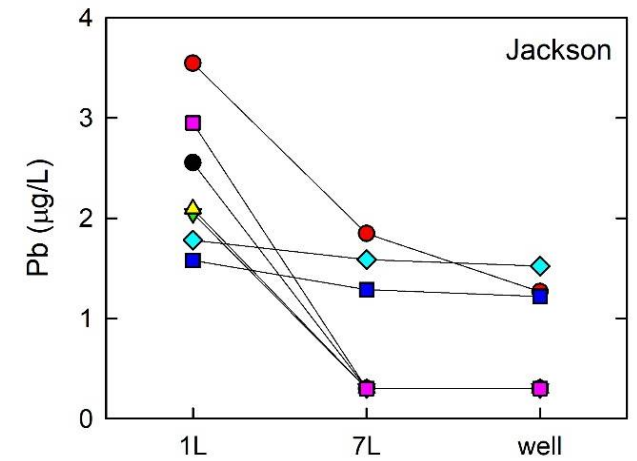
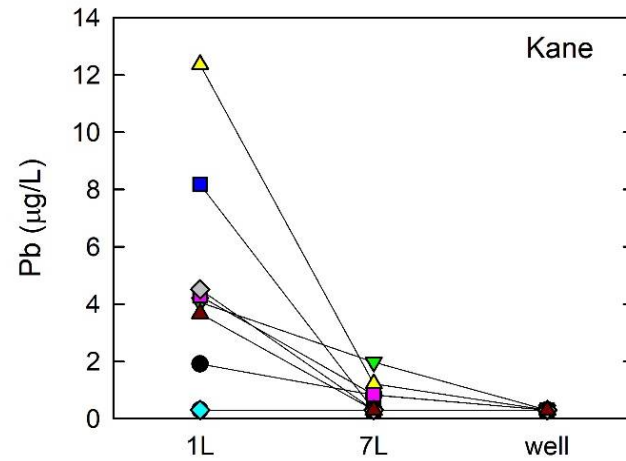
# Statistical Results, Phase I

- Homes built pre-1987 were more likely to have detectable Pb and far more likely to have Pb levels  $\geq 2$  g/L than homes built post-1986
- Homes built pre-1987 that had corrosive groundwater were 11 times more likely than new homes with non-corrosive water to have detectable Pb
  - For LSI
  - CSMR not predictive

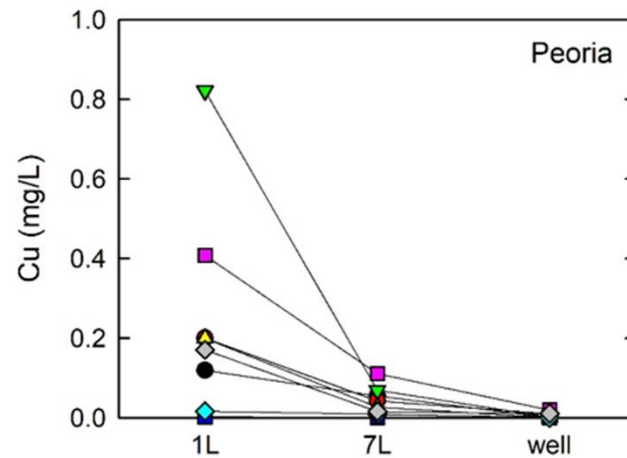
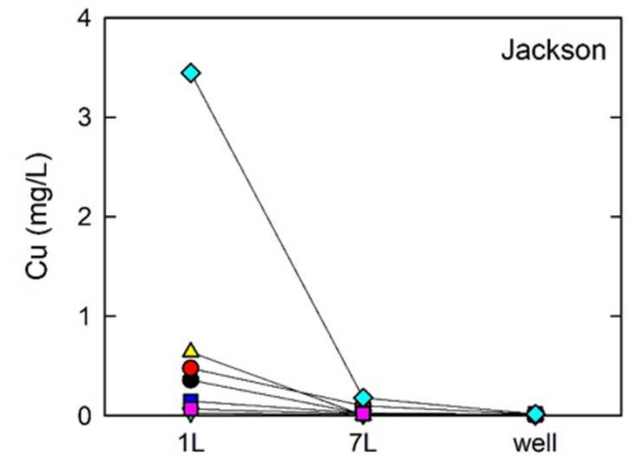
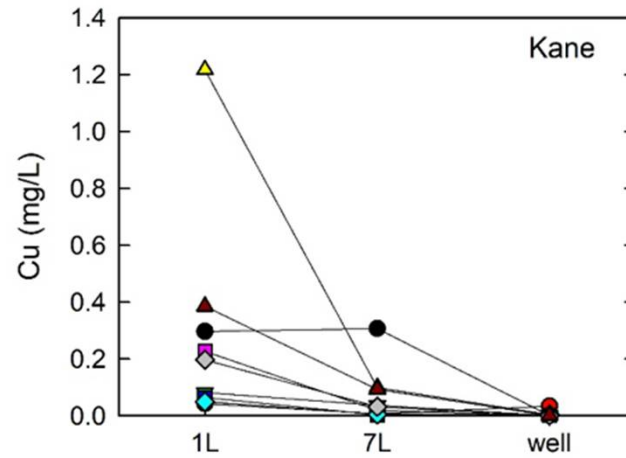
# Dissolved vs. Total Pb for Phase I, First Draw Samples



# Lead Concentrations in Phase II Sampling

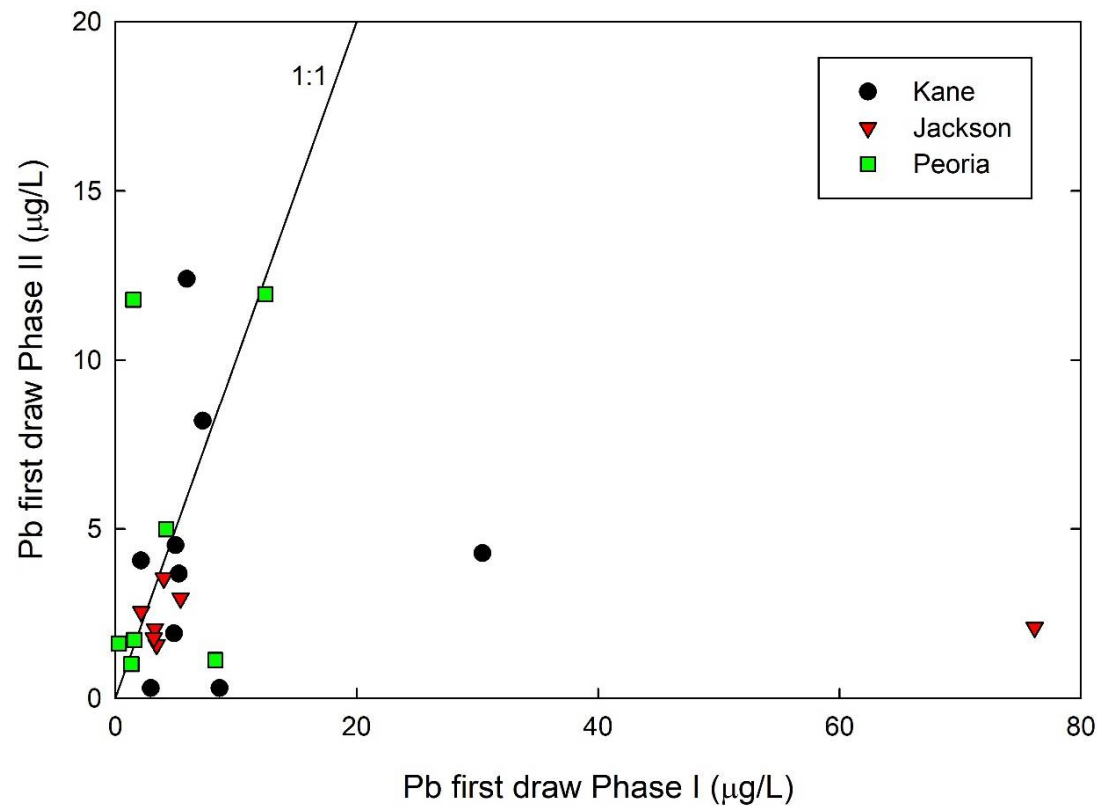


# Copper Concentrations in Phase II Sampling

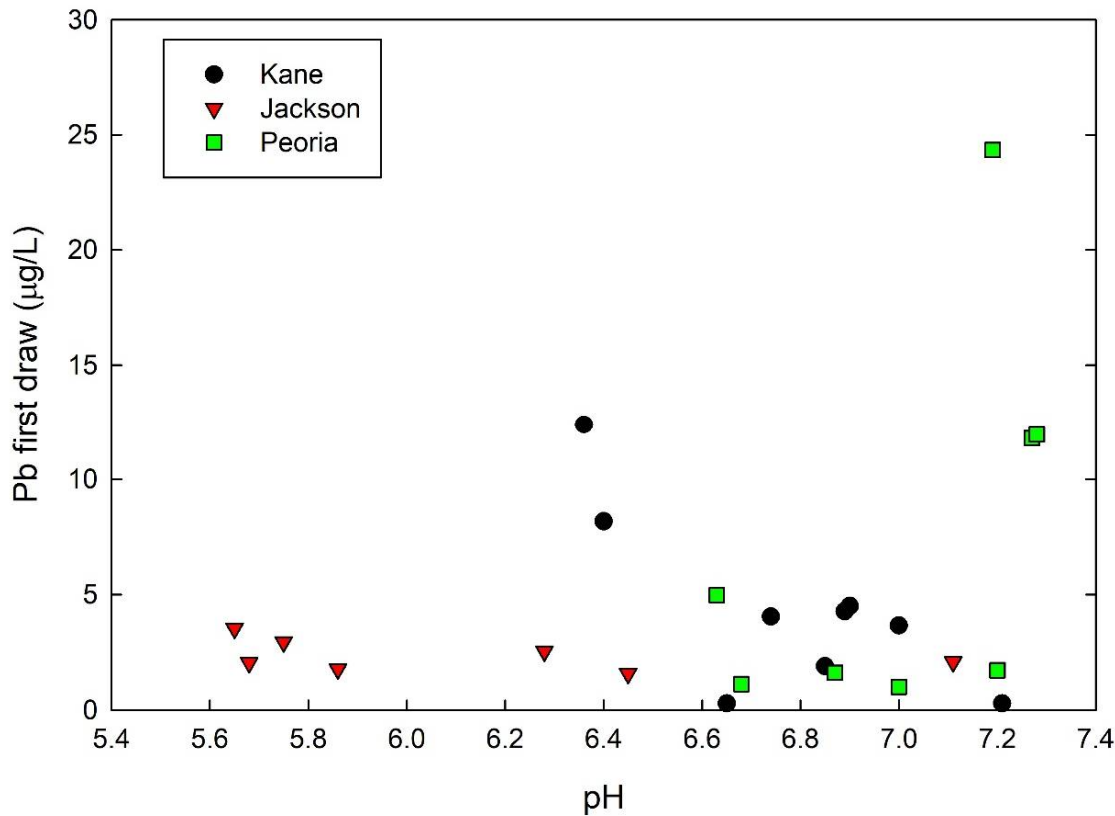




# Pb in 1<sup>st</sup> Draw Samples for Homes Sampled in Both Phase I and II



# First Draw Pb vs. pH for Phase II



- Low pH samples tended to have elevated DO and nitrate and low alkalinity
- Young, corrosive water in karst aquifer (Jackson Co.)

# Conclusions

- Homes with domestic wells can be vulnerable to Pb contamination in a variety of settings, especially older homes
- Hydrogeological settings and geochemical conditions can be important variables affecting Pb and water corrosivity
- Domestic well owners need assistance in protecting their water quality

Geiger, S.D., et al., in press. Predictors of water lead levels in drinking water of homes with domestic wells in 3 Illinois counties. *Journal of Public Health Management & Practice*.

# PrivateWellClass.org



- Series of 10 lessons sent to participants via email over 10 weeks. Self-paced
- Webinars provide specific information supporting the lessons, giving participants a chance to ask questions. Recorded and available online
- A website that serves as a resource to private well owners
- Additional resources for realtors, labs, Environmental Health Practitioners, and podcasts, videos, and partner resources

wkelly@Illinois.edu

**I ILLINOIS**

Illinois State Water Survey

PRAIRIE RESEARCH INSTITUTE



## RESOLUTION/ORDINANCE EXECUTIVE SUMMARY

### Resolution No.

Approving a Purchase Power Agreement and Lease for Solar Energy with GRNE Solarfield 05, LLC

**Committee Flow:** Administration Committee, Energy and Environmental Committee, Executive Committee, County Board

**Contact:** Jodie Wollnik, 630.232.3499

### Budget Information:

Was this item budgeted? n/a	Appropriation Amount:
If not budgeted, explain funding source:	

### Summary:

Requesting approval of a Purchase Power Agreement and Lease with GRNE Solarfield for a 2 MW facility at the Judicial Center

STATE OF ILLINOIS

COUNTY OF KANE

RESOLUTION NO.

**APPROVING A PURCHASE POWER AGREEMENT AND LEASE FOR SOLAR ENERGY  
WITH GRNE SOLARFIELD 05, LLC**

WHEREAS, the Kane County Purchasing Department received proposals on June 11, 2021 for RFP 23-021 Solar Photovoltaic System Site Development and Operation for a 2 MW solar field at the Judicial Center; and

WHEREAS, Proposals were reviewed and evaluated and GRNE Solarfield 05, LLC was determined to be the most responsive and responsible proposal for the work; and

WHEREAS, both the Kane County 2040 Energy Plan and Kane County 2040 Plan encourage renewable energy infrastructure as well as increased energy efficiency and reliability; and

WHEREAS, the Kane County Operational Sustainability Plan recommends installation of renewable energy for County Facility use in order to reduce the dependence on grid-produced electricity and lower monthly energy costs; and

WHEREAS, it is in the County's best interest to reduce energy costs with renewable energy and utilize the energy cost savings to reinvest in County owned facilities to improve energy efficiency in operations and maintenance in all County owned buildings.

NOW, THEREFORE, BE IT RESOLVED by the Kane County Board that the Chairman thereof is hereby authorized to execute a Solar Energy Purchase Power Agreement and Site Lease for Solar Installation with GRNE Solarfield 05, LLC.

Passed by the Kane County Board on September 14, 2021.

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John A. Cunningham  
Clerk, County Board  
Kane County, Illinois

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Corinne M. Pierog MA, MBA  
Chairman, County Board  
Kane County, Illinois

Vote:

GRNE Purchase Power

**County of Kane  
PURCHASING DEPARTMENT  
KANE COUNTY GOVERNMENT CENTER**

719 S. Batavia Avenue, Bldg. A.  
Geneva, Illinois 60134

Telephone: (630) 232-5929  
Fax: (630) 208-5107



June 22, 2021

**PROCUREMENT SYNOPSIS**

Requesting Department:	Environmental and Water Resources
Procurement Name:	RFP 23-021 Solar Photovoltaic System Site Development & Operation
Recommended Vendor:	GRNE Solar

**NOTIFICATION AND RESPONSE**

Public Notices: • County of Kane's Web site      • Daily Herald

Advertising Date:	May 10, 2021	Notices sent/Plan Holders: 106/64
Bid Due Date:	June 11, 2021	Bids Received: 9

**PURPOSE**

Progressive Energy Group, on behalf of Kane County, was seeking sealed proposals indicating definite interest in contracting for the development, finance, and operation of a solar photovoltaic energy system at two (2) proposed Kane County locations. Prevailing wages apply.

Progressive Energy Group, on behalf of Kane County, evaluated all proposals per specifications and requirements and determined that GRNE Solar of Palatine, IL offered the most responsive, responsible proposal for the work to be performed.

**PROPOSAL EVALUATIONS**

<b>VENDOR</b>	<b>SCORE</b>
<b>GRNE Solar – Palatine, IL</b>	<b>93%</b>
Enerlogics Solar – Youngstown, OH	88%
WCP Solar – Naperville, IL	87%
EnergyLink. – Denver, CO	86%
ForeFront Power – San Francisco, CA	80%
SunPeak LLC – Madison, WI	80%
SunVest Solar Inc. – Pewaukee, WI	74%

\*PIVOT ENERGY - DENVER, CO WAS DEEMED NON-RESPONSE (INCOMPLETE PROPOSAL)

Based on the Progressive Energy Group recommendation, the Environmental and Water Resource Department and Purchasing staff concur and recommend issuing a letter of intent to award this contract to GRNE Solar of Palatine, IL pending the parent committee and full Kane County Board's approval.

Submitted By:  
Maria Calamia, CPPB  
Kane County Purchasing Department

**SOLAR ENERGY POWER PURCHASE AGREEMENT**

THIS POWER PURCHASE AGREEMENT (this “PPA” or “Agreement”) is made and entered into as of this [DATE] (the “Effective Date”), between GRNE Solarfield 05, LLC, an Illinois limited liability company (“Seller”) and the County of Kane, IL, an Illinois unit of local government (“Buyer”). Seller and Buyer are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

WHEREAS, concurrently herewith, Seller and Buyer are entering into a Site Lease For Solar Installation (the “Lease”) pursuant to which Seller agrees to lease a project site on premises (the “Leased Premises”) owned by the Buyer and located at [PROJECT SITE ADDRESS][ES] (the “Premises”) and more particularly described in Exhibit A hereto.

WHEREAS, Seller intends to install, finance, own and operate a solar energy facility (the “System”) as more particularly described in Exhibit B hereto.

WHEREAS, as consideration for said Lease, Seller desires to sell to Buyer, and Buyer desires to purchase from Seller, all of the Energy Output generated by the System during the Term in accordance with the terms and conditions of this PPA.

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties agree as follows:

ARTICLE I  
INTRODUCTION

1.1 Defined Terms. Capitalized terms used in this PPA shall have the meanings ascribed to them in the Schedule of Definitions attached hereto as Exhibit C and made an integral part of this PPA by this reference.

1.2 Recitals. The above recitals are hereby incorporated into this PPA as if fully restated in this Article I.

1.3 Findings of the County Board. The Kane County board has entered into the Lease and this PPA upon a finding that the Leased Premises are no longer necessary, appropriate, required for the use of, profitable to, or for the best interests of the County.

ARTICLE II  
TERM

2.1 Term. The term of this PPA (the “Term”) shall commence on the Effective Date and shall be in effect until 00:00 hours [Eastern] Daylight Time on the 25th anniversary of the Commercial Operation Date. The Term may be extended only by the mutual agreement of the Parties. The general terms of this Agreement shall remain in force during any extension period.

2.2 Conditions Precedent. The respective rights and obligations of the Parties under this PPA are expressly conditioned upon the satisfaction in full (or written waiver) of all of the following conditions, which the Parties shall pursue diligently and in good faith:

Commented [A1]: Should this be Central?



- a) Buyer and Seller shall have executed and delivered the Lease;
- b) Seller, with the assistance of Buyer as required by the local utility, shall have obtained an interconnection application approved by the local electric utility;
- c) Seller shall have obtained sufficient information to determine that the project shall be eligible for a \$0.25 per DC watt rebate from the utility; and
- d) Seller shall have obtained sufficient information to determine that the project shall be eligible to receive solar renewable energy credits through the Illinois Power Agency at a price that is reasonably certain.

If the conditions precedent above are not satisfied by January 1, 2023, and only until all the conditions precedent above are satisfied, Seller may terminate this PPA without penalty subject to Section 2.4 by providing the other Party with notice pursuant to Section 16.1. Alternatively, in the event that such conditions precedent are not satisfied by July 1, 2023, either Party may terminate this PPA without penalty subject to Section 2.4 by providing notice pursuant to Section 16.1 or the Parties may mutually agree to amend this Agreement.

2.3 Removal of System at End of Term. Subject to Buyer's Purchase Option pursuant to Article XIII, Seller shall remove the System from the Premises within 180 days following the conclusion of the Term at Seller's sole cost and expense. Buyer shall provide Seller and its agents, employees, and consultants access at all reasonable times to the Premises and the System for purposes of such removal and Seller shall repair any damage caused to Premises by the removal of the System. No fewer than 180 days prior to the end of the Term, or within 10 Business Days of termination of this Agreement in accordance with Section 9.4, Seller shall provide reasonable evidence that Seller has sufficient financial resources to remove the System as required by this Agreement. If Seller does not provide such evidence, Buyer shall have the right to cease making payments to Seller otherwise required by this Agreement, and use those funds to pay for removal of the System. The cost of such removal shall be deducted from amounts otherwise due to Seller, or added to amounts otherwise due from Seller, as appropriate.

**Commented [A2]:** I know this is what we included in Kendall and FMWD. Since that time we have recommended that contracts state "no fewer than 12 months"

2.4 Termination and Survival. Effective as of any termination of this PPA the Parties will no longer be bound by the terms and conditions of this PPA and shall be released and discharged from any obligations or liabilities arising or accruing thereunder from and after the date of such termination, except (i) to the extent necessary to enforce any rights and obligations of the Parties, including payment obligations, arising under this PPA prior to termination of this PPA, (ii) as provided in Section 14.1, and (iii) that the obligations of the Parties under this PPA with respect to indemnification will survive the termination of this PPA and will continue (but only with respect to claims for indemnification based upon events or circumstances occurring or arising on or before the termination of this PPA) for a period of six (6) years following any termination of this PPA.

2.5 Project Documents. This PPA shall be considered in conjunction with the Lease and the EPC Agreement (together with their attachments and exhibits, the "Project Documents") when interpreting its provisions.

ARTICLE III  
PURCHASE AND SALE; DELIVERY; GOVERNMENTAL CHARGES

3.1 Purchase and Sale of Energy. Seller shall make available to Buyer, and Buyer shall take delivery of and purchase all Energy Output for the duration of the Term.

3.2 Price for Total Delivered Energy. Buyer shall pay Seller for Total Delivered Energy at the applicable Energy Payment Rate as set forth on Exhibit D for the duration of the Term. The payment to be made by Buyer to Seller shall equal the Total Delivered Energy for the relevant period multiplied by the Energy Payment Rate for such period.

3.3 Test Energy. Seller shall make available to Buyer and Buyer shall take delivery of all Test Energy produced by the System. Buyer shall pay Seller for the Test Energy at the Energy Payment Rate applicable on the Commercial Operation Date.

3.4 Delivery; Title and Risk of Loss. Title to and risk of loss of all Energy Output will pass from Seller to Buyer at the Metering Device. Seller warrants that it will deliver all Energy Output to Buyer at the Metering Device free and clear of all liens, security interests, claims, and other encumbrances.

3.5 Taxes and Other Governmental Charges. Buyer shall be responsible for and pay all Governmental Charges imposed directly on Buyer. Seller shall be responsible for and pay all Governmental Charges imposed directly on Seller, provided that if real estate taxes or assessments are ever assessed with respect to the Leased Premises, then Buyer shall be responsible for payment thereof. If required by any governmental authority, Buyer shall timely report, make filings for, and pay any and all sales, use, income, gross receipts, or other taxes, and any and all franchise fees or similar fees assessed against it due to its purchase of Energy Output.

a) Both Parties shall use reasonable efforts to administer this PPA and implement its provisions so as to minimize Governmental Charges. In the event any sales of Energy Output or Environmental Attributes, if any, hereunder are eligible to be exempted from or not subject to one or more Governmental Charges, promptly, upon Seller's request, Buyer shall provide Seller with all necessary documentation to obtain such exemption or exclusion at no out of pocket cost, to be defined throughout as anything other than the commercially reasonable utilization of employee time, to Buyer.

b) Each Party shall be responsible for all taxes and fees assessed against it due to its ownership of its respective property.

ARTICLE IV  
ENVIRONMENTAL ATTRIBUTES

4.1 Title to Environmental Attributes. Notwithstanding the purchase and sale of Energy pursuant to Section 3.1, all Environmental Attributes relating to the System or the Energy Output shall remain the property of Seller. Seller shall have all right, title, and interest in and to any and all Environmental Attributes that relate to the System and the Energy Output during the Term; Buyer shall have no right, title or interest in or to any Environmental Attributes and in the

event any payment for any Environmental Attribute is made to Buyer, Buyer shall promptly remit such payment directly to the Seller without deduction or offset.

4.2 Reporting of Ownership of Environmental Attributes. Buyer shall not report to any Person that any Environmental Attributes relating to the System or the Energy Output belong to any Person other than Seller.

#### ARTICLE V CONSTRUCTION AND INSTALLATION OF THE SYSTEM

5.1 Installation. Subject to Section 5.4, Seller will, at its sole expense, cause the System to be designed, engineered, installed and constructed in accordance with the terms of this PPA and the Lease. Said installation shall include the removal of any vegetation from the Leased Premises as needed.

5.2 Buyer Cooperation and Responsibilities. For purposes of installation of the System, Buyer shall provide Seller and its employees, agents, consultants, contractors, sub-contractors, and local utility personnel access during normal business hours and at other reasonable times as are acceptable to Buyer with reasonable prior notice to Buyer (or in emergency conditions at any time as soon as practicable) to (i) the Leased Premises and all System Assets, (ii) 120V electrical power and internet connectivity including firewall access at no additional cost to Seller (County will provide access at no cost, but Seller shall be responsible for the cost of any equipment necessary for that access.), and (iii) any documents, materials and records and accounts relating to the System and System Assets. Buyer shall not withhold such access unreasonably.

5.3 Seller Responsibilities. Subject to the terms of the Lease and pursuant to Applicable Law and the Building and Electrical Permits, Seller shall perform the construction and installation of the System in a good and workmanlike manner.

5.4 Building and Electrical Permits; Interconnection Agreement.

a) Seller shall be responsible for and bear all costs associated with applying for and obtaining all Building and Electrical Permits, and Buyer shall assist Seller (at no cost to Buyer) in obtaining all Building and Electrical Permits.

b) Seller shall assist Buyer in obtaining the Interconnection Agreement and Seller shall bear all costs associated with applying for and obtaining such Interconnection Agreement. Buyer shall not make any material changes to its electrical equipment at the Premises after the date on which the applicable utility interconnection application is submitted unless any such changes, individually or in the aggregate, would not adversely affect the approval by such utility of such interconnection.

c) If the local electric utility or the local inspector fails to approve the interconnection of the System or the applicable authority fails to approve or issue any Building and Electrical Permits, provided that such failure is no fault of Seller, Seller may terminate this Agreement without penalty subject to Section 2.4 by providing Buyer with notice pursuant to Section 16.1. If the local electric utility or the local inspector or any applicable authority requires material upgrades to the equipment set forth in Exhibit B in connection with the Premises in order to approve any

Building and Electrical Permits or the interconnection of the System, the Parties may reach an agreement regarding such equipment upgrades. If the Parties cannot reach such an agreement either Party may terminate this Agreement without penalty subject to Section 2.4 by providing the other Party with notice pursuant to Section 16.1.

5.5 Notice of Commercial Operation. Seller shall provide written notice to Buyer of the Commercial Operation Date no than less ten (10) Business Days prior to such date.

5.6 Commercial Operation Date Deadline. If the System has not achieved Commercial Operation within 270 days after the satisfaction of the Conditions Precedent as described in Section 2.2 of this Agreement, subject to a day-for-day extension for i) any Force Majeure event or ii) delay caused by the actions or omissions of Buyer, and only until the System has achieved Commercial Operation, Buyer may terminate this PPA without penalty subject to Section 2.4 by providing Seller with notice pursuant to Section 16.1. Alternatively, in the event that the System has not achieved Commercial Operation by the date that is eighteen (18) months after approval by the Illinois Power Agency for participation under Block 5 of the Illinois Adjustable Block Program, either Party may terminate this PPA without penalty pursuant to Section 2.4 by providing notice pursuant to Section 16.1 or the Parties may mutually agree to amend this Agreement.

5.7 System Size. The System shall have a capacity of no more than 2 MW AC peak capacity. Buyer acknowledges that there are numerous factors outside of Seller's control that affect the minimum capacity of the System, such as site survey, final permitting, required set backs, equipment locations and certain other limiting factors not yet known as of the date of this PPA. Within ten (10) days of Seller's determination of the minimum capacity of the System to be constructed, Seller shall deliver notice to Buyer of such minimum capacity (the "Minimum Capacity Notice"). If the Minimum Capacity Notice provides that such minimum capacity is less than 1.50 MW AC, then Buyer shall have the right to terminate this PPA without penalty subject to Section 2.4 by providing notice to Seller pursuant to Section 16.1 prior to the date that is ten (10) days after Seller's delivery of such Minimum Capacity Notice, or the Parties may mutually agree to amend this PPA. If Buyer fails to timely terminate this PPA, then Buyer's right to terminate this PPA shall be of no further force or effect.

## ARTICLE VI OWNERSHIP; MAINTENANCE OF SYSTEM

6.1 Ownership of System by Seller. Seller shall own the System and all System Assets, and shall be entitled to own, claim and retain any and all federal, state, or local tax benefits associated with the ownership of the System, including any federal income tax credits or grants, as well as any and all federal, state or local incentives for the installation of solar energy facilities or the production of electricity from renewable energy sources. In the event Buyer receives any payment or remittance for any federal or state income tax credits or grants, or any and all federal, state or local incentives for the installation of solar energy facilities or the production of electricity from renewable energy sources related to the System and properly owned by Seller pursuant to this Section 6.1, Buyer shall immediately deliver such payment or remittance to Seller, in the exact form received without deduction or offset, and all accompanying documentation.

a) Buyer shall at all times accurately represent to third parties, including but not limited to media outlets and Buyer's business partners, that Seller owns the System and all of the Environmental Attributes therefrom, and shall represent that Seller is the project developer in any of Buyer's promotional efforts related to the System. Buyer shall not represent that Buyer owns the System or the Environmental Attributes therefrom. All public releases related to this Agreement must be approved by both Buyer and Seller in writing, such approval to be confirmed within five Business Days and in no case unreasonably withheld.

b) Seller shall provide monthly summaries of the energy provided by the System, and, subject to the limitations set forth in Section 4.2 and Section 6.1(a), Buyer shall be free to use the information contained in the monthly summaries as it sees fit. Notwithstanding the above, Seller shall own any data produced by the System and any System Assets.

c) The System is property of Seller and is not to be regarded as a fixture or otherwise part of the Premises or Leased Premises on which it may be located.

d) Buyer shall endeavor to keep the System free from all claims, liens, encumbrances and legal processes, and shall release, discharge or bond over any such claims, liens or encumbrances placed on the System by Buyer's actions, representations or omissions (or placed by Buyer's lenders or mortgage parties in any case) within thirty (30) days of their attachment.

e) Seller shall provide a production guarantee equal to 85% of each year's projected System output calculated by Seller using HelioScope and PVSyst software based on the final System design for the System Size stated in Section 5.7. System production for the guarantee will be evaluated on an annual basis, said evaluation to be prepared by an auditor agreed to by the Parties and at Buyer's expense, and each year Buyer will be compensated for the cumulative shortfall for all years in an amount determined by multiplying i) the cumulative shortfall in kWh times ii) the difference between a) the Buyer's avoided utility rate on its most recent utility invoice; and b) the Buyer's actual purchase price for the electricity produced by the System, and then subtracting the cumulative shortfall compensation payments to Buyer in all prior years.

**Commented [A3]:** I strongly encourage that we add a Exhibit F that shows expected production by year for all 25 years and the 85% number

6.2 Lease of Premises. The Parties acknowledge and agree that Seller is leasing the portion of Buyer's Premises upon which the System is located pursuant to the terms and conditions of the Lease being entered into concurrently herewith. This PPA shall terminate if at any time the Lease expires or is earlier terminated for any reason. This PPA is consideration for said Lease.

6.3 Maintenance of System by Seller. Seller at Seller's sole expense shall operate and maintain the System and the Leased Premises in good condition and repair in accordance with applicable contractor, subcontractor and vendor warranties and guarantees and manufacturers' instructions and specifications, all Applicable Laws and applicable standards, and the applicable requirements of the insurance policies maintained by the Parties with respect to the System, and the terms of this PPA. All such maintenance performed by Seller shall be done in a good and workmanlike manner pursuant to all Building and Electrical Permits.

**Commented [A4]:** I believe we need to bifurcate this into two sections. GRNE need access to maintain field. Kane County want "Pollinator" planting and maintenance. Not even sure if ultimately County or GRNE will be responsible for Pollinator maintenance. I believe we will need to reference and add exhibit for the Pollinator items. Can we just have place holder for now?

6.4 Access for Maintenance. For purposes of inspection and maintenance of the System, Buyer shall provide Seller and its employees, agents, consultants, contractors, subcontractors, and local utility personnel access during normal business hours and at other reasonable

times as are acceptable to Buyer with reasonable prior notice to Buyer (or in emergency conditions at any time as soon as practicable) to (i) the Leased Premises and all System Assets, (ii) 120V electrical power and internet connectivity including firewall access at no additional cost to Seller (County will provide access at no cost, but Seller shall be responsible for the cost of any equipment necessary for that access.), and (iii) any documents, materials and records and accounts relating to the System and System Assets. Buyer shall not withhold such access unreasonably. During any inspection or maintenance of the System, Seller and its agents, consultants and representatives shall comply with Buyer's reasonable safety and security procedures, and Seller and its agents, consultants and representatives shall make reasonable efforts to conduct such inspection and maintenance in such a manner as to cause minimum interference with Buyer's activities and the activities of Buyer's tenants, in each case, at the Premises.

6.5 Buyer's Temporary Interference with Energy Output. Buyer will use reasonable good faith efforts to conduct its business in a way that does not interfere with the Energy Output, and shall provide Seller as much notice as possible prior to a) any shut down or other activities of Buyer or Buyer's tenants at the Premises or b) any events or activities known to Buyer, that would cause a significant reduction in the Energy Output of the System. During any period in which the System generates Energy Output materially less than the expected Energy Output as a result of (i) any Event of Default under this Agreement; or (ii) delay or failure by Buyer in performing a material obligation required under this Agreement (and provided that such Default, delay or failure is through no fault of the Seller), Buyer, to the extent permitted by Applicable Law, shall pay Seller a monthly payment (the "Make-Whole Payment") (pro-rated as needed) equal (i) to the average payment made by Buyer to Seller under this Agreement for the preceding twelve (12) months or however long the System has been in commercial operation if less than twelve (12) months, minus (ii) the amounts paid to Seller for the Energy Output provided during such period, plus (iii) the value of all Environmental Attributes for such period.

ARTICLE VII  
METERING DEVICE AND METERING

7.1 Metering Equipment. Seller shall at Seller's sole cost and expense install a Metering Device at the Premises, which Metering Device shall be owned, operated and maintained by Seller at Seller's sole cost and expense, subject to the provisions of Section 7.2.

7.2 Testing and Correction. Either Party may request a test of the Metering Device to verify the accuracy of its measurements and recordings (the "Requesting Party") by providing the other Party with written notice describing with specificity their reasons for making such request. Within ten (10) Business Days after receiving such notice from Buyer or providing such notice to Buyer, Seller shall have Metering Device tested by a third-party mutually agreed upon by the Parties to verify the accuracy of its measurements and recordings. Each Party and its Representatives shall have the right to witness any Metering Device test. If such test finds the Metering Device to be inaccurate by not more than two percent (2%), any previous recordings of the Metering Device shall be deemed accurate, and the Requesting Party shall bear the cost of inspection and testing of the Metering Device. If such test finds the Metering Device to be

**Commented [A5]:** We need to add something here that GRNE will provide real time access to production data. Kane County wants to potentially add that information to their websites

inaccurate by more than two percent (2%) or finds the Metering Device is out of service or fails to register, then:

(i) Seller shall promptly repair Metering Device to correct any inaccuracies or replace Metering Device; and

(ii) Seller shall bear the cost of inspection and testing of the Metering Device; and

(iii) future Seller invoices and Buyer payments shall reflect the Adjusted Energy Output; and

(iv) if Buyer has paid Seller for any Energy Output during the period beginning with the delivery of Requesting Party's notice and ending with the repair or replacement of the Metering Device pursuant to Section 7.2(i) (the "Meter Malfunction Period") then the amount of such Energy Output (the "Meter Malfunction Output") shall be compared to the Adjusted Energy Output. To the extent the Meter Malfunction Output exceeds the Adjusted Energy Output Seller shall promptly issue Buyer a credit in the amount of such excess multiplied by the prevailing Energy Payment Rate. To the extent the Adjusted Energy Output exceeds the Meter Malfunction Output Buyer shall promptly pay Seller an amount of such excess multiplied by the prevailing Energy Payment Rate.

7.3 Measurements: Adjusted Energy Output. Readings of the Metering Device shall be conclusive as to the amount of Total Delivered Energy and Test Energy delivered, provided that if the Metering Device is found to be inaccurate, failed or out of service pursuant to Section 7.2, the amount of Total Delivered Energy or Test Energy delivered during the Meter Malfunction Period (the "Adjusted Energy Output") shall be determined by calculating the average Total Delivered Energy per day for the 30 days following the replacement of the Metering Device pursuant to Section 7.2(i) and multiplying such average by the number of days in the Meter Malfunction period.

#### ARTICLE VIII

#### LOSS, DAMAGE OR DESTRUCTION OF SYSTEM; FORCE MAJEURE

8.1 System Loss. Seller shall bear the risk of any System Loss.

a) Either Party shall, upon becoming aware of any System Loss or any other malfunction of the System or interruption of Energy Output, provide written notice describing the extent and cause of such System Loss to the other Party no later than five (5) Business Days after so becoming aware. Within ten (10) Business Days of Seller delivering such notice to Buyer or Seller receiving such notice from Buyer, Seller shall determine in Seller's sole reasonable discretion whether the System Loss constitutes Total System Loss and if Seller determines that Total System Loss has occurred Seller shall provide Buyer with written notice of such determination.

(i) Within twenty (20) Business Days following delivery of Seller's notice determining that Total System Loss has occurred pursuant to Section 8.1(a) Seller shall decide in Seller's absolute and sole discretion whether to terminate this PPA or to repair or replace the

System and Seller shall provide Buyer with written notice of such decision. If Seller notifies Buyer that Seller decides to terminate this PPA pursuant to this Section, this PPA will terminate immediately and without penalty subject to Section 2.4 effective upon the delivery of such notice, and Seller shall remove the System from the Premises pursuant to Section 2.3. Seller shall repair any damage caused to Premises by the removal of the System pursuant to Section 2.3.

(ii) In the event of any System Loss that Seller has reasonably determined results in less than Total System Loss, this PPA shall remain in full force and effect. Seller shall be required to use all insurance proceeds collected in connection with any System Loss towards the repair or replacement of the System within 180 days of receiving the proceeds; provided however, that Seller shall not be obligated to perform any repairs or replacements in excess of the insurance proceeds made available therefor. Notwithstanding the Seller's obligation to repair or replace the System within 180 days of receiving insurance proceeds, should the Seller believe that such a timeframe is not feasible due to supply constraints, difficulties in securing a contractor or any other cause for delay outside Seller's control, Seller will notify Buyer of such delay as soon as it is commercially reasonable.

**Commented [A6]:** There is always a deductible is there not?

b) Seller shall be entitled to all proceeds of any insurance policy with respect to the System, or any System Loss or Total System Loss.

8.2 Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this PPA and such Party (the "Claiming Party") gives written notice containing details of the Force Majeure to the other Party as soon as practicable (and in any event within five (5) Business Days after the Force Majeure first prevents performance by the Claiming Party), then the Claiming Party will be excused from the performance of its obligations under this PPA (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure, and except as otherwise provided in Section 8.1). Notwithstanding the above, any Party affected by a Force Majeure will use commercially reasonable efforts to eliminate or avoid the Force Majeure and to resume performing its obligations as soon as reasonably possible; provided however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion.

8.3 Insurance. Buyer and Seller shall maintain insurance coverages as required under the terms of the Lease.

## ARTICLE IX EVENTS OF DEFAULT; REMEDIES

9.1 Events of Default. An "Event of Default" means, with respect to a Party (a "Defaulting Party"), the occurrence of any of the following:

a) such Party fails to make, when due, any payment required under this PPA if such failure is not cured within ten (10) Business Days after receipt of written notice from the Non-Defaulting Party to the Defaulting Party;

b) such Party fails to perform any material non-monetary obligation or non-monetary covenant set forth in this PPA (except to the extent constituting a separate Event of Default) if



such failure is not cured within thirty (30) days after receipt of written notice from the Non-Defaulting Party to the Defaulting Party; provided however that if the Defaulting Party has commenced reasonable steps to cure such failure within thirty (30) days after receipt of written notice and those efforts continue uninterrupted, the Defaulting party shall have until ninety (90) days after receipt of written notice from the Non-Defaulting Party to cure such failure;

- c) such Party becomes Bankrupt;
- d) such Party fails to provide or maintain in full force and effect any insurance required pursuant to Section 8.3 if such failure is not cured within ten (10) Business Days after receipt of written notice from the Non-Defaulting Party to the Defaulting Party; or
- e) default by Lessor under the Lease shall be an Event of Default with respect to Buyer; default by Lessee under the Lease shall be an event of Event of Default with respect to Seller.

9.2 Remedies for Event of Default. If at any time an Event of Default with respect to a Defaulting Party has occurred and is continuing, the other Party (the “Non-Defaulting Party”) may, by written notice to Defaulting Party, designate a date not earlier than ten (10) or later than thirty (30) Business Days after the date such notice is delivered as an early termination date in respect of this PPA (the “Default Termination Date”). This PPA shall terminate at 5:00 pm Eastern Standard Time on the Default Termination Date, subject to Section 2.4.

9.3 Buyer Rights Upon Termination for Default. If Buyer is the Non-Defaulting Party and elects to terminate this PPA as provided in Section 9.2 Buyer may, as its sole and exclusive remedy, by written notice to Seller and in Buyer’s sole and absolute discretion either:

- a) require that Seller remove the System at Seller’s sole cost and expense pursuant to the provisions of Section 2.3; or
- b) exercise the Purchase Option provided in Section 13.1, provided however, that the Buyer may not exercise the Purchase Option at any time prior to the 10<sup>th</sup> Anniversary of the Commercial Operation Date; or
- c) pursue any other legal or equitable remedies Buyer may have available under this PPA or Applicable Law.

9.4 Seller Rights Upon Termination for Default. If Seller is the Non-Defaulting Party and elects to terminate this PPA as provided in Section 9.2 Seller may, as its sole and exclusive remedy, by written notice to Buyer and in Seller’s sole and absolute discretion either:

- a) remove the System within thirty (30) Business Days after the Default Termination Date at Buyer’s sole cost and expense. Buyer shall provide Seller and its agents, employees, and consultants access at all reasonable times to the Premises and the System for purposes of such removal. Seller shall repair any damage caused to Premises by the removal of the System; or
- b) to the extent permitted by Applicable Law, require Buyer to pay to Seller within seventy five (75) days after the Default Termination Date an amount equal to the Final

Determination of a Purchase Price Appraiser determined pursuant to Sections 13.3(a)-13.3(c) of this PPA (the "Termination Fee"); provided that, notwithstanding any other provisions of this PPA, (i) if during the determination of the Termination Fee either Party fails to fulfill its obligations under Section 13.3(a), and does not cure such failure within two (2) Business Days of receiving written notice of such failure from the other Party, the other Party may appoint, at its sole discretion, the Purchase Price Appraiser, and (ii) the Termination Fee shall include all costs and expenses incurred by the Purchase Price Appraiser, as well as any costs incurred during the selection process pursuant to Section 13.3(a). The Termination Fee reflects the Seller's expected financial loss of revenue streams consequent to Buyer's default. Upon Buyer's payment in full to Seller of the Termination Fee, Seller shall transfer to Buyer all of Seller's right, title and interest in and to the System, including the right and title to all future Environmental Attributes and the assignment of related agreements, including but not limited to REC purchase and sale agreements, component warranties and operations and maintenance agreements. Notwithstanding the foregoing, if the Default Termination Date is prior to the 10th anniversary of the Commercial Operation Date, the Term of the Lease shall be extended until 10th anniversary of the Commercial Operation Date (pursuant to Section 9(a) of the Lease) and Seller shall retain ownership of the System until that date, and Seller shall transfer title to the System and all System Assets to Buyer on the date immediately following the 10th anniversary of the Commercial Operation Date; or

c) pursue any other legal or equitable remedies Seller may have available under this PPA or Applicable Law.

9.5 Unpaid Obligations. The Non-Defaulting Party shall be under no obligation to prioritize the order which it exercises any rights and remedies available under this PPA. Notwithstanding anything to the contrary herein, the Defaulting Party shall in all events remain liable to the Non-Defaulting Party for any amount payable by the Defaulting Party in respect of any of its obligations remaining outstanding after any such exercise of rights or remedies.

9.6 Abandonment. If an Event of Default has occurred and continues with respect to Seller, and if, during the continuance of such Event of Default, Seller has simultaneously abandoned the Leased Premises and the System for a continuous twelve (12) month period, then Buyer shall have the right to deliver a notice to Seller pursuant to Section 16.1 stating that "Buyer alleges that Seller has abandoned the Leased Premises and the System for a continuous twelve (12) month period during which an Event of Default has occurred and continues with respect to Seller." (the "First Abandonment Notice"). If Seller fails to deny the allegation set forth in the First Abandonment Notice within ten (10) Business Days of Buyer's delivery of the First Abandonment Notice, then Buyer shall have the right to send a second (2<sup>nd</sup>) notice to Seller pursuant to Section 16.1 stating that "BUYER HAS PREVIOUSLY SENT A FIRST ABANDONMENT NOTICE, AND IF SELLER FAILS TO DENY THE ALLEGATION SET FORTH IN THE FIRST ABANDONMENT NOTICE WITHIN TEN (10) BUSINESS DAYS OF THIS NOTICE, THEN BUYER SHALL HAVE THE RIGHT TAKE POSSESSION OF THE SYSTEM AT NO COST TO BUYER." (the "Second Abandonment Notice") If Seller fails to deny the allegation set forth in the Second Abandonment Notice within ten (10) Business Days of Seller's receipt of the Second Abandonment Notice, then, in addition to all other remedies in this Article IX, Buyer may take immediate possession of the System. In that event, Buyer, at its option, may take ownership of said System and System Assets, without further payment to Seller.

ARTICLE X  
INVOICING AND PAYMENT

10.1 Invoicing and Payment. All invoices under this PPA payable from Buyer to Seller shall be paid in accordance with the Illinois Local Government Prompt Payment Act, as amended (50 ILCS 505/1, et seq.). All invoices due from Seller to Buyer will be due and payable not later than thirty (30) days after receipt (or if such day is not a Business Day then on the next Business Day) with amounts not paid by the applicable due date to accrue interest compounding at the highest rate allowed by state law. Each Party will make payments under this PPA to the account designated by the other Party.

**Commented [A7]:** Needs to be 45 days under Illinois Prompt Payment Act

10.2 Disputed Amounts. A Party may in good faith dispute the correctness of any invoice or any adjustment to any invoice under this PPA at any time within six (6) years following the delivery of the invoice or invoice adjustment. If either Party disputes any invoice or invoice adjustment in good faith, such Party will nonetheless be required to pay the undisputed amount of the applicable invoice or invoice adjustment on the applicable payment due date, except as expressly provided otherwise elsewhere in this PPA, and to give written notice of the objection to the other Party.

10.3 Records and Audits. Each Party will keep, for a period not less than six (6) years after the expiration or termination of any Transaction, records sufficient to permit verification of the accuracy of billing statements, invoices, charges, computations and payments for such Transaction. During such period each Party may, at its sole cost and expense and upon reasonable written notice to the other Party, examine the other Party's records pertaining to Transactions during such other Party's normal business hours.

ARTICLE XI  
REPRESENTATIONS AND WARRANTIES; ACKNOWLEDGEMENTS

11.1 Representations and Warranties. Each Party represents and warrants to the other Party that:

- a) the execution, delivery and performance of this PPA are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any Applicable Law;
- b) subject to all conditions precedent described herein, this PPA and each other document executed and delivered in accordance with this PPA constitutes its legally valid and binding obligation enforceable against it in accordance with such documents' terms subject to any bankruptcy, insolvency, reorganization and other laws affecting creditors' rights generally, and with regard to equitable remedies the discretion of the applicable court;
- c) it is acting for its own account, and has made its own independent decision to enter into this PPA, and is not relying upon the advice or recommendations of the other Party in so doing;
- d) it is capable of assessing the merits of and understands and accepts the terms, conditions and risks of this PPA;

e) it understands that the other Party is not acting as a fiduciary for or an adviser to it or its Affiliates; and

f) that the various terms, obligations, charges and fees contained in this PPA are the result of arm's length transactions, or, to the extent that such charges and fees are not the result of arm's length transactions, represent market rate charges and fees and that the cost to the Seller is equivalent to fair market value.

Buyer further represents and warrants to Seller that:

(g) it has all the rights, title and interest in the Premises necessary and sufficient to perform its obligations under this Agreement and the Lease during the Term;

(h) Buyer is the fee owner of the buildings and real estate upon which the Leased Premises is located, subject to all liens or encumbrances of record;

(i) the System is not subject to any existing lien, encumbrance, mortgage or deed of trust on the Premises or Leased Premises, and Buyer shall make no action, representation or omission to create any future lien, encumbrance, mortgage or deed of trust on the Premises or Leased Premises;

(j) none of the Energy Output generated by the System will be used for the purposes of heating any swimming pool;

(k) Buyer shall continue complying with its annual disclosure requirements and posting its annual financial information to the Electronic Municipal Market Access website; provided, however, if Buyer posts such annual financial information elsewhere, then it shall provide written notice thereof to Seller; and

(l) The Premises are not subject to the lien of any financing provided by any lender or other provider of funding to Buyer.

(m) Seller further represents and warrants to Buyer that it is not an electric public utility or electrical corporation as defined by the energy laws of the State of Illinois, under the Public Utility Act (220 ILCS 5 et seq., as amended).

11.2 Buyer Acknowledgement Regarding Inapplicability of Bankruptcy Code Section 366. Buyer acknowledges and agrees that, for purposes of this PPA, Seller is not a "Utility" as such term is used in Section 366 of the Bankruptcy Code, and Buyer agrees to waive and not to assert the applicability of the provisions of Section 366 in any bankruptcy proceeding wherein Buyer is a debtor.

## ARTICLE XII INDEMNITY; LIMITATIONS

12.1 Indemnity. Seller shall indemnify, hold harmless and defend with counsel of Buyer's own choosing, Buyer, its officials, officers, employees, including its past, present, and future board members, elected officials and agents (collectively, the "Indemnified Parties") from

**Commented [A8]:** Not a problem I was just wondering why this term is in contract

**Commented [A9]:** What is this and do we need this term?

and against all liability, claims, suits, causes of action, demands, proceedings, set-offs, liens, attachments, debts, actual out-of-pocket expenses, judgment, or other liabilities including costs, reasonable fees and expense of defense, arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature (except as set forth in Section 12.4 below) to the extent arising from any breach of any covenant in this PPA or the Lease and any breach by Seller of any representations or warranties made within this PPA or the Lease (collectively, the "Claims"), except to the extent such Claims result from the gross negligence or willful misconduct of any Indemnified Party.

12.2 Nothing contained herein shall be construed as prohibiting Buyer, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Pursuant to Illinois law, 55 ILCS 5/3-9005, any attorney representing Buyer, under this article, must be approved by the Kane County State's Attorney and shall be appointed a Special Assistant State's Attorney. Buyer's participation in its defense shall not remove Seller's duty to indemnify, defend, and hold Buyer harmless, as set forth above.

12.3 Buyer does not waive its defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1, et seq.) by reason of indemnification or insurance. Indemnification shall survive the termination of this PPA for a period of six (6) years.

12.4 Notwithstanding any provision in this PPA to the contrary, neither Seller nor Buyer shall be liable to the other for damages arising out of this PPA which are not reasonably foreseeable at the time this PPA executed. The foregoing provision shall not prohibit either Party from seeking and obtaining recovery of i) third party damages for which it is entitled to indemnification hereunder, or ii) general contract damages for a breach of this PPA.

### ARTICLE XIII SYSTEM PURCHASE AND SALE OPTIONS

13.1 Purchase Option. Buyer shall have the right and option to purchase all of Seller's right, title and interest in and to all the System Assets at Buyer's sole discretion (the "Purchase Option") provided that Buyer may only use the Purchase Option at i) each of the anniversary dates of the System's commercial operation date beginning with the 10th anniversary date, ii) the conclusion of the Term or iii) pursuant to Section 9.3(b). Buyer may use the Purchase Option by providing Seller written notice of such use (x) not less than 180 days prior to the anniversary date on which the Purchase Option is being exercised, (y) not later than 180 days prior to the conclusion of the Term, or (z) pursuant to Section 9.3(b), respectively.

13.2 Determining Purchase Price. Upon Buyer's use of the Purchase Option, Buyer and Seller agree that the purchase price will be the fair market value pursuant to the following provisions of this Article XIII, which fair market value will reflect the value of (i) Seller's right, title and interest in and to all System Assets; (ii) the right and title to all future Environmental Attributes and Energy Output; and (iii) the assignment of related agreements and warranties as provided in Section 13.6 (the "System Purchase Price"). The Parties shall meet and make reasonable good faith efforts to mutually agree upon a fair market value for the System Purchase

**Commented [A10]:** Should this be 15 years since GRNE has 15-year obligation to provide REC's to IPA? I guess the other option is Kane County would potentially be liable for obligation.

Price. If the Parties fail to reach agreement after making such reasonable efforts, either Party may by written notice to the other require that an Independent Appraiser shall be selected who shall determine the System Purchase Price in accordance with the procedure set forth in Section 13.3 below; however, notwithstanding any determination of fair market value to the contrary, the Parties agree that the fair market value of the System as of the end of each anniversary date shall be no lower than the sum of (a) the values set forth in Exhibit E of this Agreement and (b) any shortfalls in SREC funding that Seller would be entitled to over the full duration of the Term.

13.3 Determination of System Purchase Price by Independent Appraiser.

a) Within ten (10) Business Days of delivery of a notice under Section 13.1 (or if this Section 13.3 is invoked pursuant to Section 9.4(b) of this Agreement, the Default Termination Date), Seller and Buyer shall make reasonable efforts to mutually agree upon the selection of an Independent Appraiser who shall determine the System Purchase Price in accordance with the procedure set forth in this Section 13.3 (the "Purchase Price Appraiser"). If Seller and Buyer have not agreed upon the appointment of a Purchase Price Appraiser by the conclusion of such period then:

(i) at the end of such five (5) Business Day period each Party shall by written notice to the other Party designate three Independent Appraisers;

(ii) within five (5) Business Days of receipt of such notice each Party shall select one of the three Independent Appraisers designated by the other Party and shall provide written notice thereof to the other Party of such selection, and Buyer shall provide the two Independent Appraisers thereby selected written notice of their selection and a summary of the provisions of this Article XIII;

(iii) within two (2) Business Days of delivery of such notice to the two Independent Appraisers, such Independent Appraisers shall appoint one of themselves to be the Purchase Price Appraiser and provide concurrent written notice thereof to Seller and Buyer. Such appointment shall be final and binding on Seller and Buyer.

b) The Purchase Price Appraiser shall be provided with a copy of this Agreement and, within twenty (20) Business Days of appointment, make a preliminary determination of the fair market value of the System Purchase Price (the "Preliminary Determination") and shall issue a statement concurrently to the Parties containing the Preliminary Determination together with all supporting documentation detailing the calculation of the Preliminary Determination. Within five (5) Business Days of receiving such statement either Party may object to the Preliminary Determination by providing Purchase Price Appraiser and the other Party concurrently with a statement describing such objections and any supporting documentation.

c) The Purchase Price Appraiser shall, within thirty (30) Business Days of appointment, make a final determination of the System Purchase Price (the "Final Determination") and shall issue a statement concurrently to the Parties containing the Final Determination and which shall specifically address any objections received by the Purchase Price Appraiser and whether such objections were taken into account in making the Final Determination. Except in

the case of fraud or manifest error, the Final Determination shall be final and binding on the Parties in regard to the System Purchase Price.

d) Seller and Buyer shall each be responsible for payment of one half of the costs and expenses of the Purchase Price Appraiser, as well as any costs or expenses incurred during the selection process pursuant to Section 13.3(a).

13.4 Exercise of Purchase Option. Buyer shall have fifteen (15) Business Days from the date the System Purchase Price is determined pursuant to Section 13.3 (the “Exercise Period”) to exercise the Purchase Option at the System Purchase Price. Buyer may exercise its Purchase Option by providing written notice to Seller and upon delivery such exercise shall be irrevocable.

**Commented [A11]:** County approval process would require at least 45 days unless a detailed estimate of the cost was provided to be able to write and get a resolution approved

13.5 Terms of System Purchase. If Buyer exercises the Purchase Option, then no later than thirty (30) Business Days following the conclusion of the Exercise Period (a) Seller shall surrender and transfer to Buyer (i) all of Seller’s right, title and interest in and to all System Assets free of liens and encumbrances, (ii) the right and title to all future Environmental Attributes and Energy Output, and (iii) the assignment of related agreements and warranties as provided in Section 13.6, (b) Buyer shall pay to Seller an amount equal to the Final Determination of the System Purchase Price, by certified check, bank draft or wire transfer and shall assume all liabilities arising from or related to the System Assets from and after the Transfer Date, and (c) both Parties shall execute and deliver a bill of sale and assignment of contract rights containing such representations, warranties, covenants and other terms and conditions as are usual and customary for a sale of assets similar to the System, together with such other conveyance and transaction documents as are reasonably required to fully transfer and vest title to the System Assets in Buyer, and deliver ancillary documents, including releases, resolutions, certificates, third person consents and approvals and such similar documents as may be reasonably necessary to complete the sale of the System Assets to Buyer.

**Commented [A12]:** Within 30 days of the approval of the sale by the Kane County Board

13.6 Assignment of Lease, Warranties or Supply Contracts. If Buyer exercises the Purchase Option, Seller shall assign to Buyer and Buyer shall accept from Seller any then-existing warranties and the Lease and any equipment, maintenance, operations and REC contracts pertaining to the System or its operation.

13.7 Inspection of Records. Seller shall make the System Assets, including records relating to the operations, maintenance, and warranty repairs, available to (a) Buyer for its inspection during normal business hours at any time following Buyer’s notice to Seller pursuant to Section 13.1 and prior to the conclusion of the relevant Exercise Period, upon at least three (3) Business Days’ prior written notice from Buyer to Seller; and (b) Purchase Price Appraiser during normal business hours between the date of the Purchase Price Appraiser’s appointment and the Final Determination.

ARTICLE XIV  
CONFIDENTIALITY

14.1 Confidentiality. Neither Party will use any Confidential Information for any purpose except such Party’s performance under this PPA. Furthermore, neither Party will disclose any Confidential Information to any third party other than the Party’s or the Party’s Affiliates’

officers, employees, lenders, counsel, accountants or advisors (collectively, “Representatives”), who have a need to know such information and who have agreed to keep such terms confidential or are otherwise bound by confidentiality obligations at least as restrictive as those contained herein; provided however, that a Party may disclose Confidential Information in order to comply with the requirements of i) any Applicable Law or ii) any rule, tariff or agreement of any utility, transmission and distribution provider (including regional interconnect, independent system operator or regional transmission operator) or iii) in connection with any judicial or regulatory proceeding or request by a governmental authority, provided further however, that each Party will use reasonable efforts to prevent or limit any such disclosure.

14.2 Public Records. Notwithstanding the above, it is understood and agreed to by Seller that all contracts entered into by a government body, such as Buyer, are open to public review and as such will be on file with the County Clerk’s office and may be released pursuant to the Illinois Freedom of Information Act (5 ILCS 140, et seq.).

ARTICLE XV  
DISPUTE RESOLUTION AND ARBITRATION

15.1 Notice of Dispute/Negotiated Resolution. Buyer and Seller shall attempt to resolve in good faith any controversy, claim or dispute between the Parties arising out of or related to this PPA or its breach (a “PPA Dispute”). The Parties agree that, should the Parties be unable to resolve such disputes, that all rights and remedies available under law and equity shall be available to them.

ARTICLE XVI  
NOTICES

16.1 Notices. All notices, requests, statements or payments required by or provided for in this PPA (“Notice” or “Notices”) will be made to the addresses and persons specified below. All Notices shall be made in writing and shall be delivered by hand delivery or overnight delivery. Notice by hand delivery or overnight delivery will be deemed to have been received when delivered. A Party may change its address by providing notice of the same in accordance with the provisions of this Section.

Buyer:

Kane County  
[INSERT CONTACT INFORMATION]

Seller:

Mr. Eric Peterman  
c/o GRNE Solar  
230 N Hicks Place,  
Palatine, IL 60067  
E-Mail: Eric@GRNESolar.com



With copy to:  
Katten Muchin Rosenman LLP  
525 W. Monroe St.  
Chicago, Illinois 60661  
Attn: Jason Gorczynski  
E-Mail: jason.gorczynski@katten.com

ARTICLE XVII  
ASSIGNMENT AND PROVISIONS BENEFITING LENDER

17.1 Assignment. The Parties shall not without the prior written consent of the other, which consent will not be unreasonably withheld or delayed, assign, pledge or transfer any or all rights or obligations under this PPA, whether voluntarily or by operation of law. Any such assignment or transfer without such consent will be null and void. Notwithstanding the foregoing, (i) with reasonably prompt written notice, Seller may assign its rights and interests in this PPA for collateral purposes in connection with any equity or debt financing involving the System, Seller or Seller's Affiliates, and (ii) Seller may assign its rights and interest in this PPA to any Affiliate of Seller. Seller shall be entitled to file informational financing statements or fixture filings in such jurisdictions as it deems appropriate to establish public record of its rights in the System or in connection with the grant of a security interest in the System to any of its Lenders.

17.2 Cooperation with Financing.

a) Buyer acknowledges that Seller will be financing the development and acquisition of the System and Buyer agrees that it shall cooperate with Seller (at no out of pocket cost to Buyer) and its financing parties in connection with such financing of the System, including (i) the furnishing of such information, (ii) the giving of such certificates, and (iii) providing such consents and other documents as Seller and its financing parties may reasonably request.

b) In connection with any financing or refinancing of the System, Buyer shall negotiate in good faith with the Seller's financing parties, collateral assignees or mortgagees (collectively, "Lenders") to agree upon a consent to collateral assignment of this PPA that shall be in form and substance agreed to by both Parties and Lenders, which agreement will not be unreasonably withheld, and shall include among other terms and conditions the following provisions:

i. The Parties shall not amend or modify this PPA in any material respect without the prior written consent of the Lenders;

ii. Whenever Buyer is required to provide notice to Seller pursuant to the default provisions of Article IX, Buyer shall give concurrent written notice to any Lenders which Buyer has been provided written notice of;

iii. Lenders shall have the right, but not the obligation, to cure an Event of Default on behalf of Seller in accordance with the provisions of this PPA, provided that Lenders shall be provided an additional time period (as to be agreed to in a consent to collateral assignment)

from the end of the cure periods provided in Section 9.1, to effect a cure of such Event of Default; and

iv. Lenders shall have the right, but not the obligation, to exercise their rights under the financing documents entered by Seller and to assign their interests in this PPA to a third party in connection with the exercise of such rights with reasonably prompt written notice to Buyer.

17.3 Notice of Lenders. Seller shall from time to time as required provide Buyer with written notice of any Lenders and provide contact information therefor for notice purposes. Upon receipt of such notice, Buyer shall recognize a particular entity as a Lender and will accord to such entity all the rights and privileges of a Lender hereunder.

17.4 Encumbrance of Buyer's Property. Neither Seller nor its Lenders shall take any action which may subject the Premises, Buyer's interest in the Leased Premises, or any real or personal property of Buyer to any lien, encumbrance, mortgage or deed of trust.

#### ARTICLE XVIII MISCELLANEOUS

18.1 Governing Law/Venue. This PPA will be governed by the laws of the State of Illinois without giving effect to principles of conflicts of laws. The Parties agree that the venue for any legal proceedings between them shall be the Circuit Court of Kane County, Illinois, Sixteenth Judicial Circuit, State of Illinois.

18.2 Entire Agreement; Amendments. Other than the Lease, this PPA (including the exhibits, any written schedules, supplements or amendments) constitutes the entire agreement between the Parties, and shall supersede any prior oral or written agreements between the Parties, relating to the subject matter hereof. Any amendment, modification or change to this PPA will be void unless in writing and signed by both Parties, subject to Section 17.2.

18.3 Non-Waiver. No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. Any waiver must be in a writing signed by the Party making such waiver.

18.4 Severability. If any part, term, or provision of this PPA is determined by an arbitrator or court of competent jurisdiction to be invalid, illegal, or unenforceable, such determination shall not affect or impair the validity, legality, or enforceability of any other part, term, or provision of this PPA, and shall not render this PPA unenforceable or invalid as a whole. Rather the part of this PPA that is found invalid or unenforceable will be amended, interpreted or replaced with a legal, enforceable, and valid provision to achieve as nearly as possible the same objectives and economic effect as the original provision, within the limits of Applicable Law, and the remainder of this PPA will remain in full force.

18.5 No Third Party Beneficiaries. Nothing in this PPA will provide any benefit to any third party or entitle any third party to any claim, cause of action, remedy or right of any kind other than with respect to the Lenders to the extent provided herein or in any consent to assignment with the Lenders.

18.6 No Recourse to Affiliates. This PPA is solely and exclusively between the Parties, and any obligations created herein on the part of either Party shall be the obligations solely of such Party. No Party shall have recourse to any Affiliate or Representative of the other Party for performance or non-performance of any obligation hereunder, unless such obligations were assumed in writing by the Person against whom recourse is sought.

18.7 Relationships of Parties. This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability upon either Party.

18.8 Conflict of Interest. Both Parties affirm no Kane County officer or elected official has a direct or indirect pecuniary interest in Seller or this PPA, or, if any Kane County officer or elected official does have a direct or indirect pecuniary interest in Seller or this PPA, that interest, and the procedure followed to effectuate this Agreement has and will comply with 50 ILCS 105/3.

18.9 Attorneys' Fees. If any action brought in law or equity with respect to this PPA, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' and experts' fees and costs incurred in bringing or defending such action or proceeding (at trial and on appeal) and/or enforcing any judgment granted therein. The prevailing Party shall be determined as the Party prevailing by seventy-five percent (75%) or more of damages or relief sought in any action brought pursuant to this PPA.

18.10 Counterparts. This PPA may be executed in several counterparts, each of which is an original and all of which together constitute one and the same instrument. A signature on a copy of this PPA received by either Party by facsimile or in electronic format (e.g., "pdf" or "tif") is binding upon the other Party as an original. Both Parties agree that a photocopy of such facsimile or such electronic format may also be treated by the Parties as a duplicate original.

18.11 Further Assurances. The Parties shall do such further acts, perform such further actions, execute and deliver such further or additional documents and instruments as may be reasonably required or appropriate to consummate, evidence, or confirm the agreements and understandings contained herein and to carry out the intent and purposes of this PPA.

18.12 Non-Discrimination. Seller, its officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations.

18.13 Certification. Seller certifies that Seller, its parent companies, subsidiaries, and affiliates are not barred from entering into this PPA as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or as a result of a violation of 820 ILCS 130/1 et seq. (the Illinois Prevailing Wage Act). Seller further certifies by signing the contract documents that Seller, its parent companies, subsidiaries, and affiliates have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act. 15 U.S.C. § 1 et seq.; and has not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or

school district in the State of Illinois in that Officer's or employee's official capacity. Nor has Seller made an admission of guilt of such conduct that is a matter of record, nor has any official, officer, agent, or employee of the company been so convicted nor made such an admission.

18.14 Prevailing Wage. To the extent that this PPA calls for the construction, demolition, maintenance and/or repair of a "public work" as defined by the Illinois Prevailing Wage Act, 820 ILCS 130/01 et seq. ("the Act"), such work shall be covered under the Act. The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing covered work on public works projects no less than the "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website at: <http://www.illinois.gov/idol/Laws-Rules/CONMED/Pages/Rates.aspx>. The Department revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Department's web site for revisions to prevailing wage rates. All contractors and subcontractors rendering services under this Agreement must comply with all requirements of the Act, including, but not limited to, all wage, notice and record-keeping duties.

**Commented [A13]:** Kane County is going to require this no matter what the law is

18.15 Drug Free Workplace. Seller and its consultants, employees, contractors, subcontractors, and agents agree to comply with all provisions of the Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 et seq. (but only to the extent that this PPA calls for the construction, demolition, maintenance and/or repair of a "public work" as defined by such Substance Abuse Prevention on Public Works Act) and the Illinois Drug Free Workplace Act, 30 ILCS 580/1 et seq.

18.16 Employment of Illinois Workers on Public Works Act. To the extent that this PPA calls for the construction, demolition, maintenance and/or repair of a "public work" as defined by the "Employment Act" (as defined below), such work shall be covered by the Employment Act. If at the time this PPA is executed, or if during the term of this PPA, there is a period of excessive unemployment in Illinois as defined in the Employment of Illinois Workers on Public Works Act, 30 ILCS 570/0.01 et seq., (hereinafter referred to as "the Employment Act"), Seller, its consultants, contractors, subcontractors and agents agree to employ Illinois laborers on this project in accordance with the Employment Act. Seller understands that the Employment Act defines (a) "period of excessive unemployment" as "as any month following two consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5%, as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures", and (b) "Illinois laborer" as "any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident." See 30 ILCS 570/1.

18.17 Material Safety Data Sheets. When applicable, Seller shall furnish Material Safety Data Sheets for their products, in compliance with the Illinois Toxic Substance Disclosure to Employee Act, Safety Inspection and Education Act & "Right to Know" law, 820 ILCS 255/1 et seq., 820 ILCS 220/0.01 et seq. and 820 ILCS 225/0.1 et seq.

18.18 Construction of Agreement; Headings. This PPA and any ambiguities or uncertainties contained herein shall be equally and fairly interpreted for the benefit of and against all Parties to this PPA, it being expressly agreed that the parties hereto participated equally in the

negotiation and preparation of this PPA or have had equal opportunity to do so. Accordingly, the parties hereby waive the legal presumption that the language of the contract should be interpreted most strongly against the party who caused the uncertainty to exist. The headings in this PPA are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provisions herein.

18.19 Exhibits and Schedules. Any and all exhibits and schedules referenced herein and/or attached hereto are hereby incorporated into this PPA by reference.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of this \_\_\_\_ day of \_\_\_\_\_, 2021:

BUYER

County of Kane, Illinois, an Illinois unit of local government

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

SELLER

GRNE Solarfield 05, LLC, an Illinois limited liability company

By: \_\_\_\_\_  
Name: Eric Peterman  
Title: CEO

EXHIBIT A  
DESCRIPTION OF PREMISES

See attached for a graphic depiction of the Premises.

[ To be provided by Kane County – Note that the Premises is more expansive than the Leased Premises, and includes the “Leased Premises, “Other System Space” and “Common Areas”.]

EXHIBIT B

DETAILED DESCRIPTION OF THE SYSTEM

Panels: Canadian Solar 640W or similar

Inverters: CPS 125kW or similar

Racking: Array Technologies Incorporated or similar



## EXHIBIT C

### SCHEDULE OF DEFINITIONS

1. Definitions. The definitions provided below and elsewhere in this PPA will apply to the defined terms used in this PPA:

“Adjusted Energy Output” shall have the meaning ascribed to such term in Section 7.3.

“Affiliate” means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.

“Applicable Law” means, with respect to any governmental authority, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, governmental approval, consent or requirement of such governmental authority, enforceable at law or in equity, along with the interpretation and administration thereof by any governmental authority.

“Bankrupt” means that a Party or other entity (as applicable): (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails (or admits in writing its inability) generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditor’s rights, or a petition is presented for its winding-up, reorganization or liquidation, which proceeding or petition is not dismissed, stayed or vacated within 30 days thereafter; (v) commences a voluntary proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors’ rights; (vi) seeks or consents to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all of its assets; (vii) has a secured party take possession of all or substantially all of its assets, or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all of its assets; (viii) causes or is subject to any event with respect to it which, under the Applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vii) inclusive; or (ix) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

“Bankruptcy Code” means the United States Bankruptcy Code.

“Building and Electrical Permits” means all permits, licenses, registrations and approvals required to install and construct the System on the Leased Premises whether required by any Applicable Law, utility, transmission or distribution provider or any other regulatory entity. The Interconnection Agreement is excluded from this definition.

“Business Day” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“Commercial Operation Date” means the date that construction and installation of the System is complete and the System connected to the electrical system of the Premises and the System is capable of delivering uninterrupted Energy Output; such date shall be determined at the sole discretion of the Seller.

“Confidential Information” means any non-public confidential or proprietary information of a Party or its Affiliates or any of its or their Representatives relating to this PPA or the System or any System Assets and revealed to the other Party or its Affiliates or any of its or their Representatives during the Term.

“Contract Year” shall mean any 12 month period beginning on the same day and month of the Commercial Operation Date.

“Costs” means any fees, expenses and/or obligations incurred by either Party in connection with this Agreement or breach thereof by the other Party.

“Default Termination Date” shall have the meaning ascribed to such term in Section 9.2.

“Effective Date” shall have the meaning ascribed to such term in the recitals.

“Energy” means electric energy (three-phase, 60-cycle alternating current, expressed in kilowatt-hours).

“Energy Payment Rate” shall be the price Buyer shall pay Seller for Total Delivered Energy under this PPA, as described in Exhibit D to this PPA hereby incorporated by reference and expressed in cents per kilowatt-hour.

“Energy Output” means the Energy generated by the System and measured in whole kilowatt-hours (kWh).

“Environmental Attributes” means any and all credits, certificates, benefits, emissions reductions, offsets, and allowances, howsoever entitled, administered by any governmental authority, utility, transmission and distribution provider (including regional interconnect, independent system operator or regional transmission operator) or any other similar entity, attributable to the generation from the System and its displacement of conventional energy generation including but not limited to Renewable Energy Credits as well as: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and other pollutants; (2) any avoided emissions of carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>) nitrous oxide, hydrofluoro carbons, perfluoro carbons, sulfur hexafluoride and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change, or otherwise by law, to contribute to the actual or potential threat of altering the Earth’s climate by trapping heat in the atmosphere; (3) any reporting rights to these avoided emissions including but not limited to Green Tag Reporting Rights; (4) any available associated electrical capacity rights. Environmental Attributes do not include: (i) any applicable Waste Water Reconciliation Credits related to the System; (ii) production or investment tax credits associated with the construction or operation of the energy projects, Treasury grants made pursuant to Section 1603 of the American Recovery and Reinvestment Act and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation

obligation; or (iii) emission reduction credits encumbered or used by the System for compliance with local, state, or federal operating and/or air quality permits.

“EPC Agreement” shall mean the contract between Seller and the contractor it selects to build the project describing the terms under which the project will be constructed.

“Event of Default” shall have the meaning ascribed to such term in Section 9.1

“Exercise Period” shall have the meaning ascribed to such term in Section 13.4.

“Federal Energy Regulatory Commission” shall mean the United States Federal Energy Regulatory Commission, or any successor agency.

“Force Majeure” means any event or circumstance that (i) is not within the reasonable control, or the result of the negligence, of the Claiming Party, and (ii) by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. This definition shall include, without limitation, (i) sabotage, riots or civil disturbances, (ii) acts of God, (iii) acts of the public enemy, (iv) acts of vandalism, (v) terrorist acts affecting the Premises, (vi) flood, ice storms, explosion, fire, lightning, or similarly cataclysmic occurrence, (vii) requirement by local electric utility that the System curtail or discontinue operation for any reason (excluding any breach of the Interconnection Agreement with such utility), (ix) appropriation or diversion of electricity by sale or order of any governmental authority having jurisdiction thereof, or (x) any other action by any governmental authority which prevents or prohibits the Parties from carrying out their respective obligations under this Agreement. This definition shall not include economic hardship of either Party and shall not include: (i) equipment failure (except to the extent that such failure itself arises from Force Majeure), (ii) acts or omissions of Seller’s contractors or agents (except to the extent that such acts or omissions themselves arise from Force Majeure), (iii) changes in costs of services, materials, labor, (iv) Buyer’s economic ability to pay for or to use the Energy Output purchased hereunder, or (v) Seller’s ability to sell Energy Output at a price greater than the Energy Payment Rate under this PPA.

“Governmental Charges” means all federal, state and local taxes, governmental charges, emission allowance costs, duties, tariffs, levies, licenses, fees, permits, assessments, adders or surcharges (including public purposes charges and low income bill payment assistance charges), imposed or authorized by any governmental authority, utility, transmission and distribution provider (including regional interconnect, independent system operator or regional transmission operator) or any other regulatory entity in connection with or relating to the generation, delivery or sale of Energy Output. Despite anything in this Agreement to the contrary, Governmental Charges do not include taxes related to the System or Seller’s income generated under this Agreement.

“Indemnity Claims” shall have the meaning ascribed to such term in Section 12.1.

“Independent Appraiser” means an individual who is a member of a national accounting, engineering or energy consulting firm qualified by education, experience and training to determine the value of solar generating facilities of the size and age and with the operational characteristics of the System. Except as may be otherwise agreed by the Parties, the Independent Appraiser shall not be (or within three years before his appointment have been) a director, officer or an employee

of, or directly or indirectly retained as consultant or adviser to, Buyer or Seller or any Affiliate of Seller or Buyer.

“Interconnection Agreement” means any agreement required for the interconnection of the System with the local electric utility and the resale of excess power to the local utility.

“Lease” shall have the meaning ascribed to such term in the recitals to this PPA.

“Leased Premises” shall have the meaning ascribed in the Lease.

“Lender” shall have the meaning ascribed to such term in Section 17.2(b).

“Metering Device” means the revenue-grade energy metering device installed and owned by Seller to measure Energy Output.

“Meter Malfunction Period” shall have the meaning ascribed to such term in Section 7.2(iv).

“Meter Malfunction Output” shall have the meaning ascribed to such term in Section 7.2(iv).

“Non-Defaulting Party” shall have the meaning ascribed to such term in Section 9.2.

“Notices” shall have the meaning ascribed to such term in Section 16.1.

“Person” means an individual, general or limited partnership, corporation, municipal corporation, business trust, joint stock company, trust, unincorporated association, joint venture, governmental authority, limited liability company, or any other entity of whatever nature.

“PPA Dispute” shall have the meaning ascribed to such term in Section 15.1.

“Preliminary Determination” shall have the meaning ascribed to such term in Section 13.3(b).

“Premises” shall have the meaning ascribed to such term in the Lease.

“Project Documents” shall mean those documents required for the construction, financing and ownership of a solar photovoltaic system, including, but not limited to, power purchase agreements, EPC Agreements and property access documentation.

“Purchase Price Appraiser” shall have the meaning ascribed to such term in Section 13.3(a).

“Renewable Energy Credit” or “REC” has the meaning set forth in 20 ILCS 3855 and in the energy laws and regulations of the State of Illinois, the Illinois Commerce Commission, and/or the Illinois Power Agency (“IPA”).

“Representatives” shall have the meaning ascribed to such term in Section 14.1.

“Schedule of Definitions” shall have the meaning ascribed to such term in Section 1.1.

“System” means the solar electric generating facility owned by Seller and more particularly described in Exhibit B, but does not include the Premises, the Leased Premises, or any other real or personal property owned by Buyer.

“System Assets” means the each and all of the assets of which the System is comprised, including Seller’s solar energy panels, mounting systems, energy monitoring systems, inverters, monitoring systems, Metering Devices, disconnects, boxes, integrators and other related equipment installed on the Premises, electric lines required to connect such equipment to the Premises, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights required for the installation, construction, operation, and maintenance of the System.

“System Loss” means any loss of or damage to the System or System Assets or any part thereof that prevents the System from operating at full capacity, resulting from or arising out of any cause or occurrence including but not limited to theft, casualty, accident, condemnation or Force Majeure other than (i) Seller’s negligence or intentional misconduct, (ii) Seller’s breach of maintenance obligations under this PPA, or (iii) normal wear and tear of the System.

“System Purchase Price” shall have the meaning ascribed to such term in Section 13.2.

“Term” shall have the meaning ascribed to such term in Section 2.1.

“Termination Fee” shall have the meaning ascribed to such term in Section 9.4(b).

“Test Energy” shall mean all Energy Output produced before the Commercial Operation Date as measured at and delivered to the Metering Device, subject to Section 7.3.

“Total System Loss” means any total or complete loss, damage or destruction of the System or System Assets or any part thereof resulting from or arising out of any cause or occurrence including but not limited to theft, casualty, accident, condemnation or Force Majeure other than (i) Seller’s negligence or intentional misconduct, (ii) Seller’s breach of maintenance obligations under this PPA, or (iii) normal wear and tear of the System.

“Total Delivered Energy” shall mean all Energy Output produced on and after the Commercial Operation Date as measured at and delivered to the Metering Device, subject to Section 7.3.

“Transaction” means any transaction between the Parties under the terms of this PPA or the Lease or any other agreement, instrument, or undertaking between the Parties.

“USD” means United States Dollars.

EXHIBIT D

ENERGY PAYMENT RATE

1. Energy Payment Rate for the first Contract Year shall be \$0.035/kWh, with prices in subsequent years provided below.

1	\$0.0350
2	\$0.0350
3	\$0.0350
4	\$0.0350
5	\$0.0350
6	\$0.0350
7	\$0.0350
8	\$0.0350
9	\$0.0350
10	\$0.0350
11	\$0.0350
12	\$0.0350
13	\$0.0350
14	\$0.0350
15	\$0.0350
16	\$0.0350
17	\$0.0350
18	\$0.0350
19	\$0.0350
20	\$0.0350
21	\$0.0350
22	\$0.0350
23	\$0.0350
24	\$0.0350
25	\$0.0350

**Commented [A14]:** I think we need to add some provisions so Kane County understand pricing may change due to open items in RFP

The price above assumes the following

1. IPA SREC Price = \$37.91
2. ComEd interconnect fee not to exceed = \$50,000
3. Cost to excavate on rework berm not to exceed = \$200,000
4. Electric interconnect to Judicial Center not to exceed = \$150,000
5. Cost of Fencing not to exceed = \$90,000
6. Assumes that the 26% Federal Investment Tax Credit is applicable for benefit of seller
7. Assumes that the Section 179 Depreciation value is applicable for benefit to the Seller
8. Annual maintenance expense for "Pollinator Seed" not to exceed = \$5,000

EXHIBIT E  
ANNIVERSARY MINIMUM FAIR MARKET VALUE (“MFMV”)  
LESS SREC OBLIGATION

Year	MFMV
10	\$975,293
11	\$915,022
12	\$854,664
13	\$794,220
14	\$733,687
15	\$673,064
16	\$612,352
17	\$551,547
18	\$490,650
19	\$429,659
20	\$368,572
21	\$307,390
22	\$246,111
23	\$184,733
24	\$123,257
25	\$61,679

## Site Lease For Solar Installation

This SITE LEASE FOR SOLAR INSTALLATION (this “Lease”), dated as of [July 2021] (the “Effective Date”) is by and between GRNE Solarfield 05, LLC, an Illinois limited liability company (“Lessee”), and the County of Kane, Illinois, an Illinois unit of local government (“Lessor”). Lessor and Lessee are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties.”

### WITNESSETH

WHEREAS, Lessor is the owner of the site located at the Kane County government campus, Illinois, as more particularly described in Exhibit B (the “Premises”);

Commented [A1]: Judicial Center campus

WHEREAS, in connection with the foregoing, Lessee desires to lease a portion of the Premises as more particularly described in Exhibit C and other space needed to construct, install, operate and maintain a photovoltaic solar energy generation facility (the “System”) from Lessor and Lessor is willing to grant such lease to Lessee;

WHEREAS, Lessee has entered or will enter into a Power Purchase Agreement (the “PPA”), pursuant to which Lessee will sell the Energy Output from the System, and the execution of which provides consideration for this Lease;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, and intending to be legally bound hereby, Lessee and Lessor hereby agree as follows:

#### 1. Leased Premises and Related Rights.

(a) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, in accordance with the terms and conditions hereinafter set forth, space at the Premises as shown on Exhibit C (the “Leased Premises”) attached hereto, for the purposes set forth in this Lease and the PPA. Lessee’s lease of the Leased Premises shall include reasonable access and use on a non-exclusive basis, said reasonableness to be determined in Lessor’s sole discretion, in accordance with the terms and conditions in this Lease, to such additional areas within the Premises (including, without limitation, certain utility closets or outdoor appurtenances) necessary for interconnection of the System and System Assets (as defined below) with the utility (the “Other System Space”). In addition, Lessee and its invitees shall have the right to use, in common with Lessor and other tenants, those applicable areas within the Premises, including the entrances, roads, driveways, public and fire stairways, sidewalks, exterior ramps, parking facilities, loading docks and other similar areas which enable Lessee to obtain full use and enjoyment of the Leased Premises for the purposes described herein, including but not limited to any driveways, parking areas, field roads and other common spaces which provide access to the Leased Premises (the “Common Areas”).

Commented [A2]: Being that some of the cabinets are in the jail, we need to be clear as to what “without limitation” means

(b) Lessor hereby consents to the construction, installation, operation and maintenance of the System, including, without limitation, solar panels, mounting substrates or supports, wiring

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and connections, power inverters, service equipment, metering equipment, security systems and utility interconnections subject to and in accordance with the terms and conditions set forth in this Lease.

(c) Lessor covenants that Lessee shall have peaceful and quiet enjoyment of the Leased Premises during the Term (as defined below) of this Lease. This Lease is intended to run with the Premises and shall survive any sale, assignment or transfer of the Premises or the Leased Premises by Lessor.

## 2. **Term and Termination.**

(a) **Term.** The term of this Lease shall commence on the Effective Date and terminate on the 25th anniversary of the Commercial Operation Date of the System (the "**Term**"). Either Party may terminate this Lease if the PPA expires or is earlier terminated.

(b) **Removal of System.** Unless explicitly provided elsewhere in this Lease or the PPA, Lessee shall remove the System from the Premises within 180 days following the expiration or earlier termination of this Lease at Lessee's sole cost and expense. Lessor shall provide Lessee and its agents, employees, and consultants access at all reasonable times to the Premises and the System for purposes of such removal and Lessee shall repair any damage caused to Premises by the removal of the System at Lessee's sole cost and expense. If Lessor obtains ownership of the System pursuant to the terms of the PPA, this Lease shall terminate.

(c) **Early termination by Lessee.** Notwithstanding any provision contained herein to the contrary Lessee may terminate this Lease without penalty by providing thirty (30) days written notice to Lessor within 180 days of the Effective Date, if:

(i) Lessee is not able to obtain a title insurance policy issued by a nationally recognized title insurance provider in connection with its lease of the Leased Premises, which insures that Lessee's leasehold interest in the Leased Premises is recordable, provides marketable title, and is free and clear of all mortgages, liens, security interests, claims, Encumbrances (as defined below) and interests (except those in connection with which Landlord has delivered to Lessee prior to 180 days from the Effective Date an NDA as described in Section 8(d)); or

(ii) Lessee is not able to obtain (A) an interconnection agreement from the local utility in connection with the System, or (B) all Building and Electrical Permits required for the construction of the System after using commercially reasonable efforts to do so;

(iii) Lessee discovers unforeseen structural issues with the Leased Premises that prevent (or substantially increase the cost of) the installation of the System; or

(iv) Lessee receives a Phase I environmental study of the Leased Premises revealing the existence of any underground storage tank or any hazardous, toxic or

dangerous materials on, in or under the Premises in violation of any Applicable Law.

(d) Findings by County Board. The Kane County board has entered into this Lease upon a finding that the Leased Premises are no longer necessary, appropriate, required for the use of, profitable to, or for the best interests of the County.

(e) Effect of Termination. Effective upon the expiration or earlier termination of this Lease the Parties will no longer be bound by its terms and conditions and shall be released and discharged from any obligations or liabilities arising or accruing thereunder from and after the date of such termination, except, i) to the extent necessary to enforce any rights and obligations of the Parties arising under this Lease prior to termination, and, ii) that the obligations of the Parties under this Lease with respect to claims for indemnification based upon events or circumstances occurring or arising on or before the termination of this Lease shall survive for a period of six (6) years following any termination of this Lease.

3. Payments. Contemporaneously with the execution of this Lease the Parties have made and entered into the PPA. The Parties agree and acknowledge that the consideration for this Lease shall be the mutual covenants and obligations of the Parties as set forth herein and as set forth in the PPA. No additional cash rent shall be due from Lessee during the term of this Lease.

4. Lessee's Work. Lessee shall, at its sole expense, construct, install and operate or cause to be constructed, installed and operated the System at the Leased Premises, in a good and workmanlike manner, with reasonable diligence, and consistent with all applicable building codes and permits.

5. Access to Premises.

a) During System operating hours and at other times as reasonably required, Lessor shall provide Lessee and its employees, agents, consultants, contractors and sub-contractors and local utility personnel access to the Leased Premises, Other System Space and all System Assets and any areas required to interconnect the System with the Premises' electrical system and any documents, materials and records and accounts relating to the System for purposes of installation, construction, operation, inspection, maintenance and removal of the System under this Lease, including but not limited to any Common Areas. Lessor shall not withhold such access unreasonably.

b) Notwithstanding any other provisions of this Lease, Lessee and its employees, agents, consultants, contractors and sub-contractors and local utility personnel may enter and access the Leased Premises or the Other System Space without prior notice, consent or accompaniment of the Lessor in any situation related to the System where there is an imminent risk of (i) death or bodily harm to any person, or (ii) substantial damage to either the System or the Premises (an "Emergency"). Upon learning of an Emergency, either Party shall immediately notify the other.

Commented [A3]: May need some kind of notification of sheriff here

**6. System and Output Ownership.**

(a) Lessee's Rights and Responsibilities. Lessee shall at all times retain title to and be the legal and beneficial owner of the System and all System Assets and in no event shall anyone claiming by, through or under Lessor (including but not limited to any present or future mortgagee of the Premises) have any rights in or to the System at any time. All System Assets shall remain the personal property of Lessee and shall not become fixtures notwithstanding the manner in which the System is or may be attached, physically mounted or adhered to any structures, buildings, fixtures or other real property of Lessor, and Lessor shall have no right, title or interest in any System or any System Assets.

(i) Lessee may grant or cause to be granted to its Lender(s) a security interest in the System and Lessor expressly subordinates any rights it may have in the System, at any time and from time to time whether pursuant to this Lease, at law or in equity or otherwise. Lessee may file one or more informational financing statements or fixture filings in such jurisdictions as it deems appropriate with respect to the System in order to establish public record of its rights in the System or in connection with the grant of a security interest in the System to any of its Lenders, including but not limited to a memorandum of lease.

(b) Lessor's Rights and Responsibilities. Lessor shall at all times retain title to and be the legal and beneficial owner of the Premises and in no event shall anyone claiming by, through or under Lessee have any rights in or to the Premises or any improvements thereon (other than the System and all System Assets or pursuant to Lessee's rights in the Leased Premises under this Lease) at any time. Neither Lessee nor its Lenders(s) shall take any action which may subject the Premises, Lessor's interest in the Leased Premises, or any real or personal property of Lessor to any lien, encumbrance, mortgage, or deed of trust.

(i) Lessor may grant or cause to be granted to its lender(s) a security interest in the Premises and improvements thereon (other than the System and all System Assets or pursuant to Lessee's rights in the Leased Premises under this Lease) and Lessee expressly disclaims and waives any rights it may have in the Premises and improvements thereon (other than the System and all System Assets or pursuant to Lessee's rights in the Leased Premises under this Lease) at any time whether pursuant to this Lease, at law or in equity.

(c) Notwithstanding the System's presence on the Premises, (i) Lessor shall not directly or indirectly cause, create, incur, assume or suffer to exist any Encumbrance on or with respect to the System or any interest therein. Lessor also shall pay promptly before a fine or penalty may attach to the System any taxes, charges or fees of whatever type of any relevant governmental authority for which Lessor is responsible and (ii) Lessee shall not directly or indirectly cause, create, incur, assume or suffer to exist any Encumbrance on or with respect to the Premises or improvements thereon (other than the System) or any interest therein. Lessee also shall pay when due before a fine or penalty may attach to the Premises or any improvements thereon (including the System or pursuant to Lessee's rights under this Lease) any taxes, charges or fees of whatever type of any relevant governmental authority for which Lessee or its contractors are responsible. If a Party breaches its obligations under this Section 6(c), it shall immediately notify the other Party in writing, shall cause such liens to be satisfied, discharged and released of

record (by bonding over or otherwise) within ten (10) days after it receives knowledge of such lien without cost to the other Party, and, to the extent permitted by law, shall indemnify the other Party against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in connection therewith. If a Party fails to satisfy, discharge and release a lien as required by this Section 6(c), the other Party may do so at the sole cost and expense of the responsible Party.

7. **Maintenance; Repair.** Lessee at Lessee's sole expense shall maintain the System and the Leased Premises in good condition and repair in accordance with applicable contractor, subcontractor and vendor warranties and guarantees and manufacturers' instructions and specifications, all Applicable Laws and applicable standards, and the terms of this Lease. All such maintenance performed by Lessee shall be done in a good and workmanlike manner pursuant to all Building and Electrical Permits. Lessor may, at its option and expense, install security lighting on the Leased Premises, provided that (a) the location of such lighting shall be mutually agreed upon in writing by Lessor and Lessee, (b) the installation, operation, maintenance and existence of such lighting shall not interfere with Lessee's installation of the System or the generation of energy from the System, (c) Lessor shall maintain such lighting in good condition and repair in accordance with applicable contractor, subcontractor and vendor warranties and guarantees and manufacturers' instructions and specifications, all Applicable Laws and applicable standards, and the terms of this Lease and (d) Lessor shall repair any damage caused to the System or the Leased Premises by the installation, operation, maintenance and existence of such lighting at Lessor's sole cost and expense.

Commented [A4]: Dark Sky lighting required, may be neighbor concerns?

8. **Representations and Warranties, Covenants of Lessor.** Lessor represents and warrants that:

a) **Authorization.** Lessor (i) has been duly authorized to enter into this Lease by all necessary action and (ii) by entering this Lease will not be in default under any agreement to which it is a party (including any financing, security or leasing arrangement with respect to the Premises) or any valid order of any court, or regulatory agency or other body having authority to which Lessee is subject.

b) **Lessor's Title to Premises.** Lessor has lawful title to the Premises, including the Leased Premises, and, upon keeping and performing each and every covenant, agreement, term, provision and condition herein contained on the part and on behalf of Lessee to be kept and performed, Lessee shall have quiet and peaceful possession and quiet enjoyment of the Leased Premises free from any claim of any Person of superior title thereto throughout the term of this Lease. Lessor shall not sell or otherwise transfer the Premises, unless Lessor shall have given Lessee at least fifteen (15) Business Days prior written notice thereof identifying the transferee, the Premises to be so transferred and the proposed date of transfer. In event of a sale or transfer by Lessor of the Premises, the same shall operate to release Lessor from any future liability upon any of the covenants or conditions, express or implied, contained in this Lease in favor of Lessee, and in such event Lessee agrees to look solely to the successor in interest of Lessor in and to this Lease, provided that Lessor shall cause any such successor in interest to execute and deliver to Lessee a document pursuant to which such successor in interest shall assume all of Lessor's rights and obligations under this Lease. This Lease shall not be affected by any such sale or transfer.

c) No Interference With and Protection of System. Lessor shall not conduct activities on or about the Premises, including the Leased Premises, which have a reasonable likelihood of causing damage, impairment or otherwise adversely affecting the System.

i) Lessor shall not attempt to modify, repair, replace, or otherwise interfere with the System or any System Assets (and shall not authorize any third party to do so).

d) Non-Disturbance Agreement. This Lease is subject and subordinate in all respects to any underlying leases, ground leases, licenses or agreements, and to all mortgages which may now or hereafter be placed on or affect such leases, licenses or agreements or the land or the Premises and also to all renewals, modifications, consolidations and extensions of such underlying leases, ground lease, licenses, agreements, and mortgages. Lessor shall obtain a non-disturbance agreement (“NDA”) from any third party who holds an interest in, or Encumbrance on, the Premises including without limitation, any lenders to Lessor or transferees or mortgagees of the Premises, which NDA shall (a) acknowledge and consent to the Lessee’s rights in the Leased Premises, (b) acknowledge that the third party has no interest in the System and shall not gain any interest in the System by virtue of the Parties’ performance or breach of this Lease and (c) subordinates any lien the third party may have in and to the System that is or may from time to time hereafter be located at the Leased Premises. In addition, prior to granting any future interest in, or Encumbrance on, the Premises, Lessor shall obtain an NDA from the grantee.

e) Insolation. Lessor acknowledges and agrees that access to sunlight (“Insolation”) is essential to the value to Lessee of the leasehold interest granted hereunder and is a material inducement to Lessee in entering into this Lease. Accordingly, Lessor shall not permit any interference with Insolation at the Leased Premises. Without limiting the foregoing, Lessor shall not do any of the following if doing so would in Lessee’s reasonable determination adversely affect the Insolation levels at the Premises: i) construct or permit to be constructed any structure on the Premises, ii) permit the growth of foliage, or iii) emit or permit the emission of suspended particulate matter, smoke, fog or steam or other air-borne impediments. If Lessor becomes aware of any potential development or other activity on nearby properties that could adversely affect the Insolation to the Leased Premises, Lessor shall promptly provide Lessee with notice of such information and reasonably cooperate (at no cost to Lessor) with Lessee’s measures to preserve existing levels of Insolation at the Leased Premises. Notwithstanding any other provision of this Lease, the Parties agree that (i) Lessee shall be irreparably harmed by a breach of the provisions of this Section 8(e), (ii) an award of damages shall be inadequate to remedy such a breach, and (iii) Lessee shall be entitled to equitable relief, including specific performance, to compel compliance with the provisions of this Section 8(e).

f) Interconnection Access. Lessor shall grant or reasonably assist Lessee in securing any easements or other property access rights reasonably required by the local utility or other governing authority to interconnect the System to the local utility grid.

g) Hazardous Materials. To the best of Lessor’s knowledge, there are no substances, chemicals or wastes, identified as hazardous, toxic or dangerous materials in any Applicable Law,

**Commented [A5]:** Maybe need to mention restriction of approved landscape berm and include a copy of the design drawing in this section?

present on, in or under the Leased Premises in violation of any Applicable Law. Lessor shall not introduce or use any hazardous, toxic or dangerous materials on, in or under the Leased Premises in violation of any Applicable Law. If Lessor becomes aware of any such hazardous, toxic or dangerous materials, Lessor shall promptly notify Lessee of the type and location of such materials in writing.

**9. Representations and Warranties, Covenants of Lessee.** Lessee represents and warrants that:

(a) Authorization; Enforceability. Lessee (i) has been duly authorized to enter into this Lease by all necessary action and (ii) by entering this Lease will not be in default under any agreement to which it is a party or any valid order of any court, or regulatory agency or other body having authority to which Lessee is subject.

(b) Hazardous Materials. Lessee shall not introduce or use any hazardous, toxic or dangerous materials on, in or under the Premises in violation of any Applicable Law. If Lessee becomes aware of any such hazardous, toxic or dangerous materials, Lessee shall promptly notify Lessor of the type and location of such materials in writing. Lessee agrees to assume full responsibility for (and protect, indemnify and defend Lessor against) any liability or cleanup obligations for any contamination or pollution or breach of environmental laws related to the use of any hazardous, toxic or dangerous materials on, in or under the Premises that are directly attributable to the actions of Lessee.

(c) Damage Due to System. Lessee shall pay any costs incurred by Lessor to repair damage to the Premises or Leased Premises that are directly and solely attributable to the installation, operation or removal of the System, provided that prior to the repair of any such damage, (i) Lessor provides Lessee (and its employees, agents and contractors) the opportunity to inspect such damage, and (ii) review in advance of its execution any contract to repair it.

**10. Insurance.**

(a) At all times commencing on the date Lessee or its contractors start construction of the System, Lessee shall carry and maintain, at its sole cost and expense, the following insurance coverages:

(i) commercial general liability insurance with a broad form endorsement, or then comparable equivalent ISO forms and coverage, applicable to the Premises and its appurtenances including, without limitation, the common areas, providing, on an occurrence basis, a minimum combined single limit of One Million Dollars (\$1,000,000.00), including but not limited to, coverages for bodily injury, property damage, and contractual liability, and coverages for any and all injury resulting from any act or omission on the part of Lessee or Lessee's contractor's, licensees, agents, visitors or employees, on or about the Premises including such claims arising out of the construction of improvements on the Premises, with no deductible in excess of Ten Thousand Dollars (\$10,000.00);

(ii) workers compensation insurance covering all persons employed in connection with the construction of any improvements by Lessee and the operation of its business upon the Premises in accordance with Applicable Laws; and

(iii) special form (or its then-comparable equivalent ISO form) property insurance written at replacement cost value and with an agreed amount endorsement sufficient to avoid coinsurance covering the System and all of Lessee's property at the Premises and Alterations installed in the Premises. No deductible shall be in excess of Ten Thousand Dollars (\$10,000.00). This insurance policy shall also insure direct or indirect loss of Lessee's earnings attributable to Lessee's inability to use fully or obtain access to the Premises.

(b) By requiring insurance herein, neither Party represents that coverage limits will necessarily be adequate to protect the other and such coverage and limits shall not be deemed as a limitation on either Party's liability under the indemnities granted in this Lease.

(c) Either Party shall give prompt notice to the other in case of fire or other casualty or accidents in the Premises, or of defects therein or in the fixtures or equipment.

**11. Taxes.** The Parties agree that the System is the personal property of the Lessee and not a fixture to the Leased Premises, and Lessee shall pay all personal property taxes levied on the System, but Lessee shall not be responsible for any real estate taxes or assessments with respect to the Leased Premises. If real estate taxes or assessments are ever assessed with respect to the Leased Premises, then Lessor shall be responsible for payment thereof.

**12. Liability and Indemnity.**

(a) Lessee shall indemnify, hold harmless and defend with counsel of Lessor's own choosing, Lessor, its officials, officers, employees, including its past, present, and future board members, elected officials and agents (collectively, the "Indemnified Parties") from and against all liability, claims, suits, causes of action, demands, proceedings, set-offs, liens, attachments, debts, actual out-of-pocket expenses, judgment, or other liabilities including actual out-of-pocket costs, reasonable fees and expense of defense, arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature (except as set forth in Section 12(d) below) to the extent arising from any breach of any covenant in this Lease or the PPA and any breach by Lessee of any representations or warranties made within this Lease or the PPA (collectively, the "Claims"), except to the extent such Claims result from the gross negligence or willful misconduct of any Indemnified Party.

(b) Nothing contained herein shall be construed as prohibiting Lessor, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Pursuant to Illinois law, 55 ILCS 5/3-9005, any attorney representing Lessor, under this article, must be approved by the Kane County State's Attorney and shall be appointed a Special Assistant State's Attorney. Lessor's participation in its defense shall not remove Lessee's duty to indemnify, defend, and hold Lessor harmless, as set forth above.

(c) Lessor does not waive its defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1, et seq.) by reason of indemnification or insurance. Indemnification shall survive the termination of this Lease for a period of six (6) years.

(d) Notwithstanding any provision in this Lease to the contrary, neither Lessee nor Lessor shall be liable to the other for damages arising out of this Lease which are not reasonably foreseeable at the time this Lease is executed. The foregoing provision shall not prohibit either Party from seeking and obtaining recovery of i) third party damages for which it is entitled to indemnification hereunder, or ii) general contract damages for a breach of this Lease.

**13. Casualty or Condemnation.** In the event the Premises or the Leased Premises shall be so damaged or destroyed so as to make the use of the Leased Premises impractical as reasonably determined by Lessee, then Lessee may at any time provide notice to the other that fifteen (15) Business Days following the delivery of such notice this Lease shall effectively terminate subject to Sections 2(b) and 2(e). If Lessee does not elect to terminate this Lease pursuant to the previous sentence, Lessee shall exercise commercially reasonable efforts to repair and restore the Leased Premises and the System to its condition prior to such damage or destruction to the extent required by the PPA.

**14. Assignment.**

a) Lessee's Assignment. Lessee shall not assign or pledge this Lease or sublet the whole or any part of the Leased Premises, whether voluntarily or by operation of law, or permit the use or occupancy of the Leased Premises by anyone other than Lessee, and shall not make, suffer or permit any such assignment, subleasing or occupancy, without the prior written consent of Lessor, which restrictions shall be binding upon any and all assignees of this Lease and subtenants of the Premises. Notwithstanding the foregoing, Lessee, upon prior written notice to Lessor, may in its sole discretion assign any of its rights, duties or obligations under this Lease (i) to one or more of its Affiliates (as defined below), or (ii) to one or more third parties for collateral purposes in connection with any debt or equity financing involving the System, Lessee or Lessee's Affiliates.

b) Assignment to Lessee's Lender. With respect to an assignment pursuant to clause a)(ii) above, Lessor acknowledges and agrees that, upon receipt of written direction by any Lender of Lessee, Lessor will recognize Lender or any third party to whom Lender has reassigned the rights of Lessee under this Lease, as the proper and lawful Lessee of the Premises and as the proper and lawful successor to this Lease. Lessor shall be protected and shall incur no liability in acting in good faith upon any such written direction by Lender which Lessor shall in good faith believe (i) to be genuine and (ii) a copy of which to have been delivered to Lessee. Lessor shall be under no duty to make any investigation or inquiry as to any statements contained or matters referred to in any such foregoing direction, but may accept and rely upon them as conclusive evidence of the truth and accuracy of such statements.

c) Lessee's Assignees. Any assignee from Lessee shall agree to and shall assume in writing the obligations of the Lessee under this Lease and shall be bound by the terms of this Lease.



**15. Provisions Benefiting Lender.**

a) In connection with any financing or refinancing of the System, Lessor shall negotiate in good faith with the Lessee's financing parties, collateral assignees or mortgagees (collectively "Lenders") to agree upon a consent to collateral assignment of this Lease that shall be in form and substance agreed to by both Parties and Lenders, which agreement will not be unreasonably withheld, and shall include among other terms and conditions the following provisions.

i. The Parties shall not amend or modify this Lease in any material respect without the prior written consent of the Lenders;

ii. Whenever Lessor is required to provide notice to Lessee pursuant to the default provisions of Section 16, Lessor shall give concurrent written notice to any Lenders which Lessor has been provided written notice of;

iii. Lenders shall have the right, but not the obligation, to cure an Event of Default on behalf of Lessee in accordance with the provisions of this Lease, provided that Lenders shall be provided an additional time period (as to be agreed to in a consent to collateral assignment) from the end of the cure periods provided in Section 16, to effect a cure of such Event of Default; and

b) Lessee shall from time to time as required provide Lessor with written notice of any Lenders and provide contact information therefor for notice purposes. Upon receipt of such notice, Lessor shall recognize a particular entity as a Lender and will accord to such entity all the rights and privileges of a Lender hereunder.

c) Notice of Default. As a precondition to exercising any rights or remedies as a result of any default or alleged default by Lessee, Lessor shall deliver a duplicate copy of any applicable notice of an Event of Default (a "Notice of Default") to each Lender concurrently with delivery of such notice to Lessee, specifying in detail the alleged Event of Default and the required remedy, provided Lessor was given written notice of such Lender as provided hereunder.

d) Liability. Except as may otherwise be provided in a consent to collateral assignment as contemplated in this Section 15, a Lender that does not directly hold an interest in this Lease, or that holds a Lender's Lien, shall have no obligations under this Lease prior to the time that such Lender succeeds to absolute title to such interest or after the time that such Lender no longer has ownership of such interest.

e) Subordination of Lien. Subject to the terms and conditions hereof, Lessor hereby subordinates any lien or security interest (or claim arising therefrom) it may have in and to any System Assets to any lien or security interest (or claim arising therefrom) of any Lender in such System Assets; provided, however, that this subordination shall not prevent Lessor from exercising any right or remedy against Lessee to which Lessor may be entitled under this Lease or as may be provided by Applicable Law; nor shall it prevent Lessor from realizing upon any lien it may have on any System Assets, so long as Lessor recognizes Lender's prior right as described above.

Lessor further agrees to notify any purchaser of the Premises, and any subsequent mortgagee or other encumbrance holder, of the existence of the foregoing subordination of Lessor's lien, which shall be binding upon the executors, administrators, successors and transferees of Lessor, and shall inure to the benefit of the successors and assigns of Lender. Lessor shall execute a subordination, non-disturbance and attornment agreement with Lenders in a commercially reasonable form.

**16. Defaults and Remedies.**

a) Default. An "Event of Default" shall occur if a Party (the "Defaulting Party") fails to perform any obligation or covenant hereunder and such failure is not cured within thirty (30) days for any monetary obligation or within sixty (60) days for any non-monetary obligation after receiving written notice from the other Party (the "Non-Defaulting Party"); provided, however, that if the nature or extent of the obligation or obligations or cure is such that more than sixty (60) days are required, in the exercise of commercially reasonable diligence, for performance of such obligation(s), then the Defaulting Party shall not be in default if it commences such performance within ten (10) days following receipt of such notice and thereafter continues to pursue the same through to completion with commercially reasonable diligence. An Event of Default by Seller under the PPA shall be an Event of Default with respect to Lessee, and an Event of Default by Buyer under the PPA shall be an Event of Default with respect to Lessor.

b) Remedies. During any period where an Event of Default has occurred and is outstanding, the Non-Defaulting Party shall be entitled to: (i) by written notice to the Defaulting Party, designate a date not earlier than ten (10) Business Days and not later than thirty (30) Business Days after the date such notice is delivered as an early termination date with respect to this Lease (the "Default Termination Date") and this Lease shall terminate at midnight Eastern Standard time on the Default Termination Date; and (ii) exercise any and all remedies available to it at law or in equity, all of which remedies shall be cumulative.

i. In the event that the Non-Defaulting Party terminates this Lease pursuant to this Section, the Defaulting Party shall pay all costs and expenses associated with the removal of the System from the Premises.

c) Performance Excused by Force Majeure. To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under this Lease and such Party (the "Claiming Party") gives written notice containing details of the Force Majeure to the other Party as soon as practicable (and in any event within five (5) Business Days after the Force Majeure first prevents performance by the Claiming Party), then the Claiming Party will be excused from the performance of its obligations (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). Notwithstanding the above, any Party affected by a Force Majeure will use commercially reasonable efforts to eliminate or avoid the Force Majeure and to resume performing its obligations as soon as reasonably possible; provided however, that neither Party is required to settle any strikes, lockouts or similar disputes except on terms acceptable to such Party, in its sole discretion.

**17. Notices.** Any notice required by or provided for in this Lease shall be made to the addresses and persons set forth below. All notices shall be delivered by hand delivery, or confirmed

receipt delivery via US Postal Service or commercial carrier. Notice will be deemed to have been received when delivered. A Party may change its address by providing notice of the same in accordance with the provisions of this section.

If to Lessor:

Kane County Administrator  
[INSERT CONTACT INFORMATION]

If to Lessee:

Mr. Eric Peterman  
c/o GRNE Solar  
230 N Hicks Place,  
Palatine, IL 60067  
E-Mail: [Eric@GRNESolar.com](mailto:Eric@GRNESolar.com)

With copy to:  
Katten Muchin Rosenman LLP  
525 W. Monroe St.  
Chicago, Illinois 60661  
Attn: Jason Gorczynski  
E-Mail: [jason.gorczynski@katten.com](mailto:jason.gorczynski@katten.com)

**18. Non-Waiver.** No failure or delay by either Party in exercising any right, power, privilege, or remedy hereunder will operate as a waiver thereof. Any waiver must be in a writing signed by the Party making such waiver, and such waiver shall not be deemed to be a waiver of any subsequent breach of the same, or any other term, condition, or provision contained herein.

**19. No Third Party Beneficiaries.** This Lease is solely for the benefit of the Parties hereto and no right or cause of action shall accrue by reason hereof for the benefit of any third party not a party hereto, other than the Indemnified Parties and any secured parties, including the Lenders.

**20. Headings.** The headings in this Lease are solely for convenience and ease of reference and shall have no effect in interpreting the meaning of any provision of this Lease.

**21. Choice of Law.** This Lease shall be construed in accordance with the laws of the State of Illinois without regard to its conflict of laws principles. The Parties agree that the venue for any legal proceedings between them shall be the Circuit Court of Kane County, Illinois, Sixteenth Judicial Circuit, State of Illinois.

**22. Binding Effect.** This Lease and its rights, privileges, duties and obligations shall inure to the benefit of and be binding upon each of the Parties, together with their respective successors and permitted assigns.

23. **Counterparts.** This Lease may be executed in counterparts, which shall together constitute one and the same agreement. A signature on a copy of this Lease received by either Party by facsimile or in electronic format (e.g., “pdf” or “tif”) is binding upon the other Party as an original. Both Parties agree that a photocopy of such facsimile or such electronic format may also be treated by the Parties as a duplicate original.

24. **Entire Lease; Amendments.** This Lease, together with the consideration provided by the PPA, represents the full and complete agreement between the Parties with respect to the subject matter contained herein and supersedes all prior written or oral agreements between said parties with respect to said subject matter. Lease may be amended only in writing signed by Lessee and Lessor or their respective successors in interest.

25. **Further Assurances.** Upon the receipt of a written request from the other Party, each Party shall execute such additional documents, instruments and assurances and take such additional actions as are reasonably necessary to carry out the terms and intent hereof. Neither Party shall unreasonably withhold, condition, or delay its compliance with any reasonable request made pursuant to this section. At the request of Lessee, Lessor agrees to execute and deliver in recordable form a copy of this Lease (or a memorandum of this Lease in a form mutually agreeable to both Parties) for recording in the title records of the county where the Premises are located or other applicable government office.

26. **Estoppel.** Either Party shall, without charge, within five (5) Business Days after receipt of a written request by the other Party deliver a written instrument, duly executed, certifying to the requesting Party, or any other Person specified by the requesting Party:

a) That this Lease is unmodified and in full force and effect, or if there has been any modification, that the same is in full force and effect as so modified, and identifying any such modification;

b) Whether or not to the knowledge of any such Party there are then existing any offsets or defenses in favor of such Party against enforcement of any of the terms, covenants and conditions of this Lease and, if so, specifying the same and also whether or not to the knowledge of such Party the other Party has performed all of the terms, covenants and conditions on its part to be performed, and if not, specifying the same; and

c) Such other information as may be reasonably requested by a Party.

Any written instrument given hereunder may be relied upon by the recipient of such instrument, except to the extent the recipient has actual knowledge of facts contained in the certificate.

27. **Conflict of Interest.** Both Parties affirm no Kane County officer or elected official has a direct or indirect pecuniary interest in Lessee or this Lease, or, if any Kane County officer or elected official does have a direct or indirect pecuniary interest in Lessee or this Lease, that interest, and the procedure followed to effectuate this Lease has and will comply with 50 ILCS 105/3.

**28. Attorneys' Fees.** If any action brought in law or equity with respect to this Lease, arbitration, judicial reference or other proceeding is instituted between the Parties in connection with this Lease, the losing Party shall pay to the prevailing Party a reasonable sum for attorneys' and experts' fees and costs incurred in bringing or defending such action or proceeding (at trial and on appeal) and/or enforcing any judgment granted therein. The prevailing Party shall be determined based upon an assessment of which Party's major arguments or positions taken in the proceedings could fairly be said to have prevailed over the other Party's major arguments or positions on major disputed issues as the Party prevailing by seventy-five percent (75%) or more of damages or relief sought in any action brought pursuant to this Lease.

**29. Non-Discrimination.** Lessee, its officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations.

**30. Certification.** Lessee certifies that Lessee, its parent companies, subsidiaries, and affiliates are not barred from entering into this Lease as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or as a result of a violation of 820 ILCS 130/1 et seq. (the Illinois Prevailing Wage Act). Lessee further certifies by signing the Lease that Lessee, its parent companies, subsidiaries, and affiliates have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act, 15 U.S.C. § 1 et seq.; and has not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that Officer's or employee's official capacity. Nor has Lessee made an admission of guilt of such conduct that is a matter of record, nor has any official, officer, agent, or employee of the company been so convicted nor made such an admission.

**31. Prevailing Wage.** To the extent that this Lease calls for the construction, demolition, maintenance and/or repair of a "public work" as defined by the Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the Act"), such work shall be covered under the Act. The Act requires contractors and subcontractors to pay laborers, workers and mechanics performing covered work on public works projects no less than the "prevailing rate of wages" (hourly cash wages plus fringe benefits) in the county where the work is performed. For information regarding current prevailing wage rates, please refer to the Illinois Department of Labor's website at: <http://www.illinois.gov/idol/Laws-Rules/CONMED/Pages/Rates.aspx>. The Department revises the prevailing wage rates and the contractor/subcontractor has an obligation to check the Department's web site for revisions to prevailing wage rates. All contractors and subcontractors rendering services under this Lease must comply with all requirements of the Act, including, but not limited to, all wage, notice and record-keeping duties.

32. **Drug Free Workplace.** Lessee and its consultants, employees, contractors, subcontractors, and agents agree to comply with all provisions of the Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 et seq. (but only to the extent that this Lease calls for the construction, demolition, maintenance and/or repair of a "public work" as defined by such Substance Abuse Prevention on Public Works Act) and the Illinois Drug Free Workplace Act, 30 ILCS 580/1 et seq.

33. **Employment of Illinois Workers on Public Works Act.** To the extent that this Lease calls for the construction, demolition, maintenance and/or repair of a "public work" as defined by "the Employment Act" (as defined below), such work shall be covered by the Employment Act. If at the time the Lease is executed, or if during the term of the Lease, there is a period of excessive unemployment in Illinois as defined in the Employment of Illinois Workers on Public Works Act, 30 ILCS 570/0.01 et seq., (hereinafter referred to as "the Employment Act"), Lessee, its consultants, contractors, subcontractors and agents agree to employ Illinois laborers on this project in accordance with the Employment Act. Lessee understands that the Employment Act defines (a) "period of excessive unemployment" as "as any month following two consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5%, as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures", and (b) "Illinois laborer" as "any person who has resided in Illinois for at least thirty (30) days and intends to become or remain an Illinois resident." See 30 ILCS 570/1.

34. **Material Safety Data Sheets.** When applicable, Lessee shall furnish Material Safety Data Sheets for their products, in compliance with the Illinois Toxic Substance Disclosure to Employee Act, Safety Inspection and Education Act & "Right to Know" law, 820 ILCS 255/1 et seq., 820 ILCS 220/0.01 et seq. and 820 ILCS 225/0.1 et seq.

[Signatures on the following page]

**IN WITNESS WHEREOF**, the Parties have executed this Lease as of the Effective Date.

LESSOR

County of Kane, Illinois, an Illinois unit of local government

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

LESSEE

GRNE Solarfield 05, LLC, an Illinois limited liability company

By: \_\_\_\_\_  
Name: Eric Peterman  
Title: CEO

## **EXHIBIT A**

### **SCHEDULE OF DEFINITIONS**

**Definitions.** The definitions provided below and elsewhere in this Lease will apply to the defined terms used in this Lease.

“**Affiliate**” means, with respect to any entity, any other entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such entity.

“**Applicable Law**” means, with respect to any governmental authority, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, holding, injunction, registration, license, franchise, permit, authorization, guideline, governmental approval, consent or requirement of such governmental authority, enforceable at law or in equity, along with the interpretation and administration thereof by any governmental authority.

“**Building and Electrical Permits**” means all permits, licenses, registrations and approvals required to install and construct the System on the Leased Premises whether required by any Applicable Law, utility, transmission or distribution provider or any other regulatory entity. The Interconnection Agreement is excluded from this definition.

“**Business Day**” means any day except a Saturday, Sunday, or a Federal Reserve Bank holiday.

“**Commercial Operation Date**” means the date that construction and installation of the System is complete and the System connected to the electrical system of the Premises and the System is capable of delivering uninterrupted energy output; such date shall be determined at the sole discretion of the Lessee.

“**Default Termination Date**” shall have the meaning ascribed to it in Section 16(b).

“**Defaulting Party**” shall have the meaning ascribed to it in Section 16(a).

“**Emergency**” shall have the meaning ascribed to it in Section 5(d).

“**Encumbrance**” means any mortgage, pledge, lien (including mechanics’, labor or materialman’s lien), charge, security interest, or other encumbrance or claim.

“**Event of Default**” shall have the meaning ascribed to it in Section 16(a).

“**Force Majeure**” means any event or circumstance that (i) is not within the reasonable control, or the result of the negligence, of the Claiming Party, and (ii) by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided. This definition shall include, without limitation, (i) sabotage, riots or civil disturbances, (ii) acts of God, (iii) acts of the public enemy, (iv) acts of vandalism, (v) terrorist acts affecting the Premises, (vi) flood, ice storms, explosion, fire, lightning, or similarly cataclysmic occurrence, (vii) requirement by local electric



utility that the System curtail or discontinue operation for any reason (excluding any breach of the Interconnection Agreement with such utility), (viii) pandemics and epidemics, (ix) appropriation or diversion of electricity by sale or order of any governmental authority having jurisdiction thereof, or (x) any other action by any governmental authority which prevents or prohibits the Parties from carrying out their respective obligations under this Agreement. This definition shall not include economic hardship of either Party and shall not include: (i) equipment failure (except to the extent that such failure itself arises from Force Majeure), (ii) acts or omissions of Lessee's contractors or agents (except to the extent that such acts or omissions themselves arise from Force Majeure), or (iii) changes in costs of services, materials, labor.

"Indemnified Parties" shall have the meaning ascribed to it in Section 12(a).

"Insolation" shall have the meaning ascribed to it in Section 8(e).

"Interconnection Agreement" means any agreement required for the interconnection of the System with the local electric utility and the resale of excess power to the local utility.

"Leased Premises" shall have the meaning ascribed to it in Section 1(a).

"Lender" shall have the meaning ascribed to it in Section 15(a).

"NDA" shall have the meaning ascribed to it in Section 8(d).

"Non-Defaulting Party" shall have the meaning ascribed to it in Section 16(a).

"Notice of Default" shall have the meaning ascribed to it in Section 15(c).

"Other System Space" shall have the meaning ascribed to it in Section 1(a).

"PPA" shall have the meaning ascribed to it in the recitations section of this Lease.

"Premises" shall have the meaning ascribed to it in the recitations section of this Lease.

"System" shall have the meaning ascribed to it in the recitations section of this Lease.

"System Assets" means the each and all of the assets of which the System is comprised, including Lessee's solar energy panels, mounting systems, energy monitoring systems, inverters, monitoring systems, metering devices, disconnects, boxes, integrators and other related equipment installed on the Premises, electric lines required to connect such equipment to the Premises, protective and associated equipment, improvements, and other tangible and intangible assets, permits, property rights and contract rights required for the installation, construction, operation, and maintenance of the System.

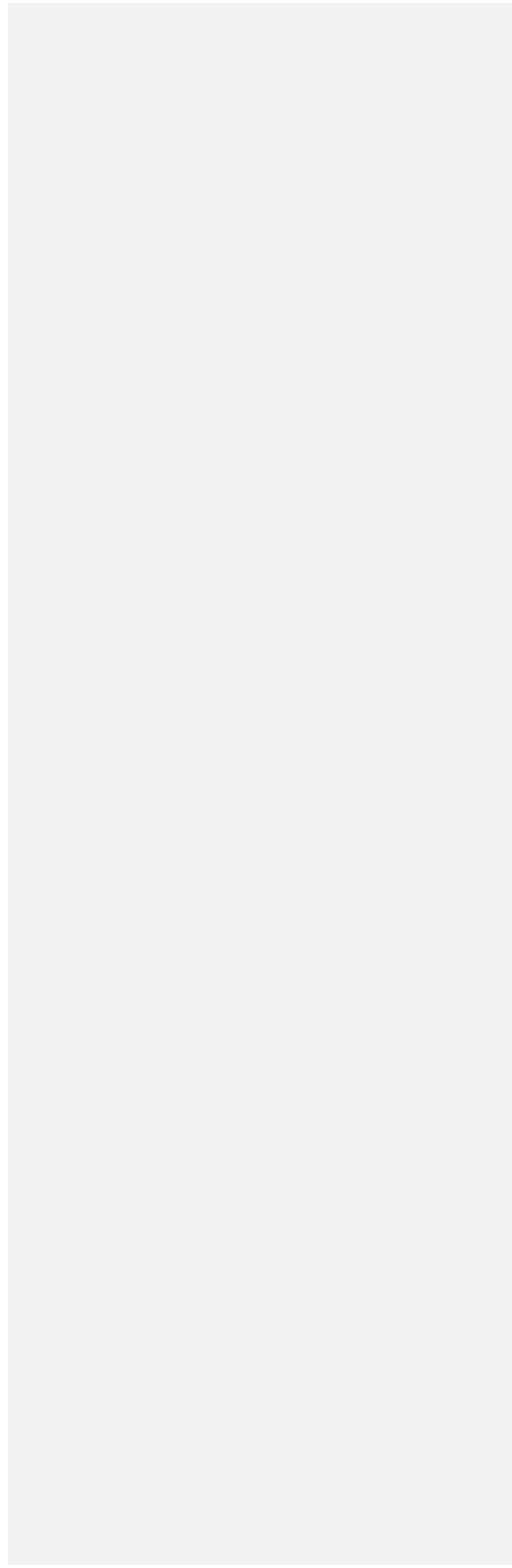
"Term" shall have the meaning ascribed to it in Section 2(a).

**EXHIBIT B**

**DESCRIPTION OF PREMISES**

The "Premises" shall mean the real property and buildings thereon located at:

[TO BE PROVIDED BY KANE COUNTY – Note that the Premises is more expansive than the Leased Premises, and includes the "Leased Premises, "Other System Space" and "Common Areas".]



B-1

**EXHIBIT C**

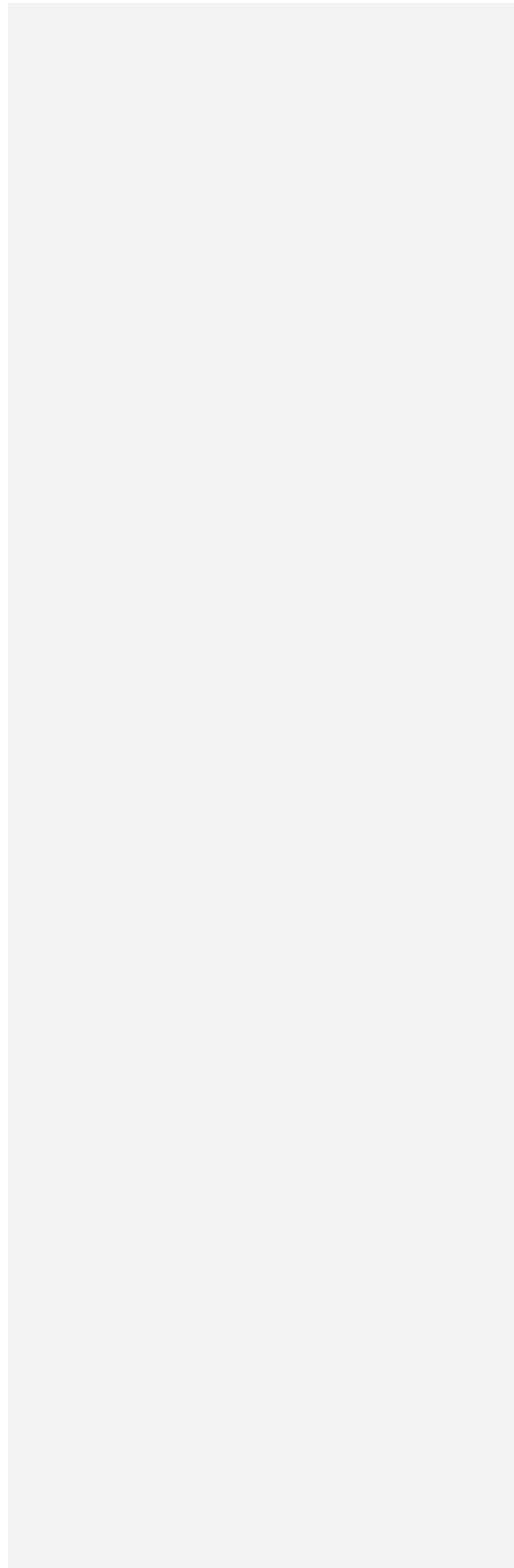
**DESCRIPTION OF LEASED PREMISES**

“Leased Premises” are located at [ \_\_\_\_\_ ] and consist of:

[ Legal description to be provided by Kane County ]

And depicted graphically as follows. Any conflict between the legal description above and the graphic depiction below shall be resolved in favor of the written legal description.

[ Graphic depiction to be provided by Kane County ]

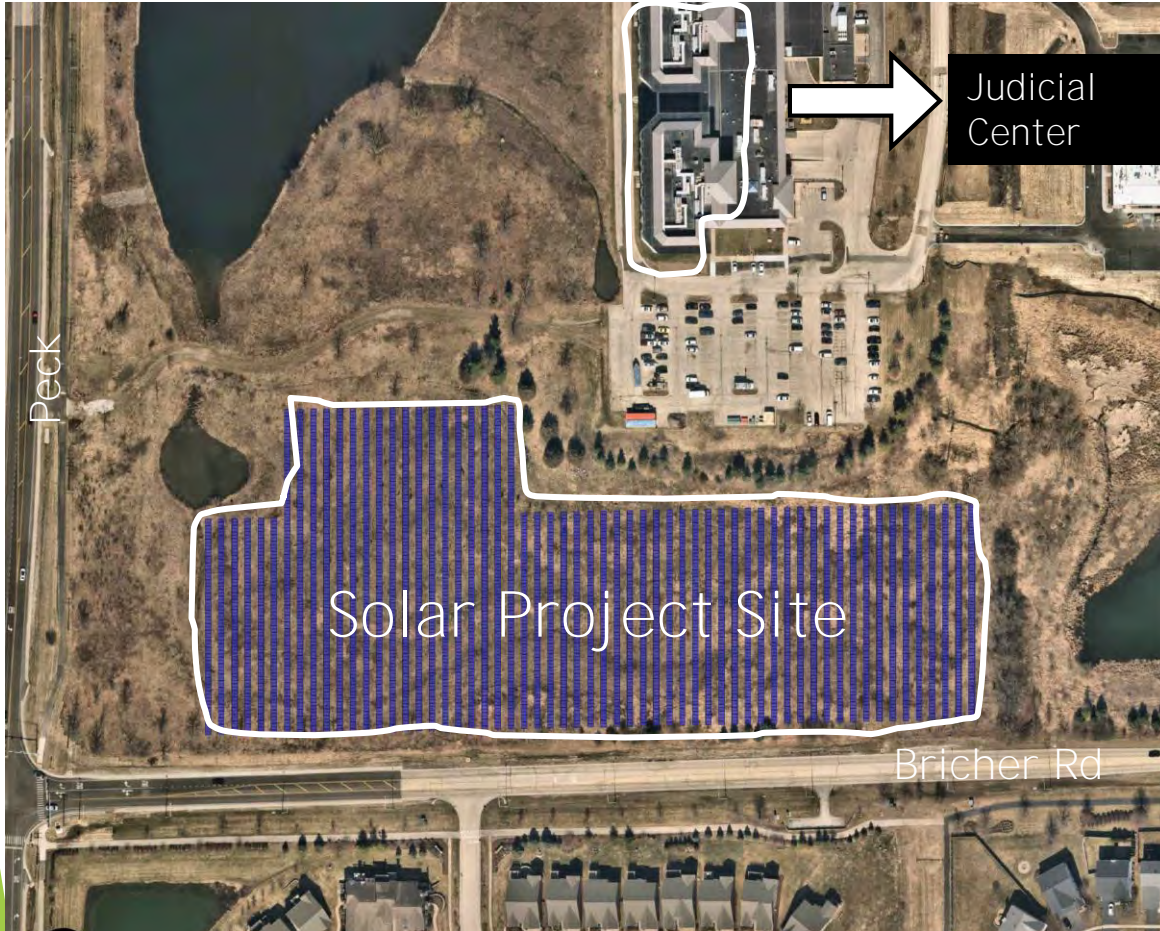


# COUNTY OF KANE



## Solar Power Purchase Agreement Opportunity for Kane County Judicial Center

# GRNE Solar Proposed Solar Site



- ▶ Utilize non-developable land in southwest corridor to create green energy
- ▶ All future and proposed additions to Master Plan for the campus are outside the project site - no interference with Judicial Center or Parking Lot

# Town Hall Meeting Summary

- Kane County Board Room, August 3<sup>rd</sup>, 2021 @6pm
- 19 attendants via zoom, 5 attendants in person
- Main Concerns:
  - Chain link fence
  - Direct view of solar panels for neighbors (see image that was sent in from across the street)
  - Decrease in property values



# Potential Solutions

- Work with GRNE Solar to upgrade fencing facing Bricher Rd to be aesthetically pleasing
- Parkway trees working with Geneva (County cost, could use savings) meaningful landscaping
- Work with neighbors who are concerned
- Sign to demonstrate environmental benefits



# Power Purchase Agreement Summary

- Term: 25 year agreement
- GRNE required to remove system at end of agreement and will perform all maintenance
- Energy: Kane County purchases the electricity from GRNE Solar
- Environmental Attributes: GRNE Solar owns all attributes and tax credits/rebates
- Construction: GRNE Solar
- Ownership of System: GRNE Solar
- System Loss: GRNE Solar



# Land Lease Agreement

- 25 year lease
- Removal of System: GRNE Solar
- Early Termination by Lessee:
  - Findings by County Board - no longer beneficial to the County
  - Interconnection or Structural Site Issues
- Maintenance and Repair: GRNE Solar
- Landscaping Plan TBD

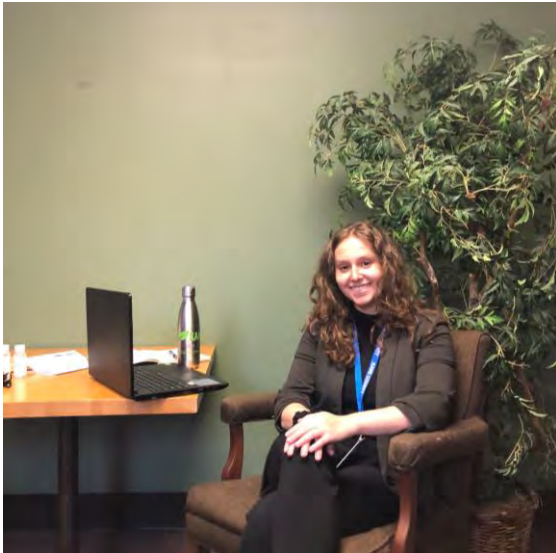
# Resolution

- Approving a Purchase Power Agreement and Lease for Solar Energy with GRNE Solarfield 05 LLC for a 2 MW Solar Field at the Judicial Center subject to review by SAO
- Opportunity to create renewable energy infrastructure, promote energy efficiency and reliability
- Benefits go to County Facilities - reduce dependence on grid electricity AND lower energy costs
- Utilize energy cost savings to reinvest in County owned facilities to improve efficiency in operations and maintenance

## Timeline:

- PPA Resolution presented to Administrative & Energy and Environment Committee in August 2021
- PPA Resolution presented to Executive and County Board in September 2021

# Thank you! Questions?



Ivy Klee

Resource Management Coordinator

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