

**SUNX LLC, c/o Distributed Sun LLC**  
1425 K St. NW, Suite 701  
Washington DC 20005

March 9, 2021

**Town of Caroline Town Board**  
c/o Town Clerk  
2670 Slaterville Road  
Slaterville Springs, NY 14881

**Re: Addendum to Waiver Request dated January 29, 2021 Under Local Law Providing for a 180-day Moratorium on Land Use Development**

Members of the Board,

SUNX LLC (“SUNX”), a subsidiary of Distributed Sun LLC (“DSUN”), submitted an exemption waiver dated January 29, 2021 (the “Waiver Request”) from the Town of Caroline (“Town”) in regard to the Local Law Providing for a 180-day Moratorium on Land Use Development approved on December 11, 2020 (the “Moratorium”). Based on Town reviews, SUNX provided additional documentation and information. This letter acts as an addendum to the Waiver Request and certifies that the following four documents make up the documentation to be considered by the Town:

- Waiver Request;
- 5-Unit CDG PV sketch plan dated February 2021 including satellite imagery;
- 5-Unit CDG PV sketch plan dated February 2021 including topography;
- This Addendum letter dated March 9, 2021 for consideration prior to public hearing on Wednesday, March 10.

This petition is intended to provide the merits of our request and to demonstrate the consequential hardships faced by the local property owner, Anthony Tavelli, and SUNX if such waiver is not granted. This Addendum aims provide additional information requested through email from the Town during the week of March 1<sup>st</sup>. Due to the dynamic nature of global trade policy, federal and state regulations, federal and state tax policies, NYSERDA policies and incentives, utility interconnection application reviews, and aging infrastructure in New York, SUNX and Mr. Tavelli seek clear guidance from the Town as to whether, when conditions are appropriate, it will be open to renewable energy executed within clear guidelines from the Town.

**Description of existing conditions**

SUNX proposes to build approximately twenty-two megawatts-alternating-current (22 MWac) of solar photovoltaic projects (the “Projects”) on parcels currently identified as 502000-30.-1-1.1, 502000-30.-1-2.2, and 502000-30.-1-1.3, all located on Seventy Six Road, near Weston Road. Maps submitted with the Waiver request present the general site characteristics with underlaid satellite imagery. To expand on the imagery, the lands have most recently been used as hayfields by Mr. Anthony Tavelli with potential for crop rotation. The sites also include hedgerows of trees that have separated agricultural fields and properties; these hedgerows are slated for removal. In addition, the public databases show two water features moving throughout the sites: (1) an

agricultural pond on parcel identified as 502000-30.-1-2.2 and (2) a federally-defined watercourse flowing from 502000-30.-1-2.2 to 502000-30.-1-1.3. Scrub area exists around the agricultural pond, which would be slated for removal.

SUNX is not aware of any buildings or structures within the project area. Existing access to parcel 502000-30.-1-1.3 is available from Seventy Six Road, and SUNX will utilize existing infrastructure as feasible.

### **Project Area and Disturbed Area**

SUNX is currently estimating developing 130 acres of land on 502000-30.-1-1.1, 502000-30.-1-2.2, and 502000-30.-1-1.3. SUNX currently views this as the upper limit of potential development as it is the currently agreed-upon acreage between SUNX and the landowners. Based on diligence with New York State Department of Environmental Conservation (“NYSDEC”), United States Army Corps of Engineers, United States Fish and Wildlife Service, or New York State Electric and Gas (“NYSEG”), these values could move downward.

With respect to “disturbed acreage”, SUNX understands differing guidance from New York State on the State Environmental Quality Review Act (“SEQRA”) and a strict stormwater perspective. As it is possible that vehicles and equipment would be at the exterior of the fence during construction, an additional five acres are attributed to development area, meaning 135 acres of disturbed area. Based on a stormwater management analysis, less than three acres of land will be converted to impervious area, as long as NYSDEC best-management practices are utilized.

### **Overhead and Underground Utility Infrastructure**

Per the standard terms of a SUNX solar lease, on-site medium-voltage wires are obligated to be buried, to the extent feasible. This reduces long-term wear and tear, as well as exposure to damaging incidents. However, at the interface with NYSEG, overhead wires are required for safety and access. Emergency shut-offs and metering equipment will be placed at the roadside to connect with NYSEG infrastructure on Seventy Six Road. Based on NYSEG specifications, there may be up to five poles per interconnection site.

### **Impact on local roads**

The most notable time for impact on local roads will be during construction. After the sites are commissioned, the visits to site are expected quarterly. (The majority of observation is done off-site through internet-enabled monitoring.) Based on major New York thoroughfares, traffic is likely to enter the Town at the east or the south, indirectly from Interstate 81 or Interstate 86, respectively. The majority of the impact will be on state and/or county roads, which would nominally be more robust than local Town roads. The project is located on County Road 115 or Seventy Six Road, thus the primary impacts on Town roads are expected to be minimal.

### **Impacts on stormwater**

The Projects will maintain or decrease the storm water flow and maintain the water quality from

the pre-construction to the post-construction condition for the execution of these Projects. The stormwater pollution prevention plan (“SWPPP”) will be prepared by a NYS-registered professional engineer and use best-management practices to minimize impact and specify any mitigating measures to ensure this. The SWPPP will be prepared in accordance with Town of Caroline Local Law #2 of 2007 and the NYSDEC State Pollution Discharge Elimination System Construction General Permit (GP-0-20-001). As part of the review process, SUNX will submit a wetland delineation report to share findings with the team of the wetland findings on site. SUNX will submit to both the NYSDEC and the USACE for a preliminary jurisdictional determination. In line with correspondence with both those entities, SUNX requests that the Town schedule a visit to the Projects should it wish to exercise its visitation rights in Section 202-2 B (c).

### **Panel orientation**

Based on advancement in engineering, SUNX is proposing single-axis tracking technology for the Projects. These systems are installed in north-south oriented rows. The trackers tilt east in the mornings and track the sun’s course through the day and tilt west by sundown. Conventionally, fixed-tilt arrays such as those in Harford, Dryden, or Lansing do not rotate and are oriented due south.

### **Landowner Impacts**

SUNX and Mr. Tavelli have opted to take leadership in the application for the waiver in the Town because Mr. Tavelli currently farms the land that will be re-purposed with the proposed Projects. The landowners for parcels 502000-30.-1-1.1, 502000-30.-1-2.2 do not currently reside in the Town. SUNX has agreed with them, just as SUNX has with Mr. Tavelli, to take action to find alternative uses for these parcels.

### **Economic Hardship**

SUNX, DSUN, and many other concerned New York citizens are currently seeking economic solutions to help New York successfully transition to 100% clean energy by 2040. However, the economic headwinds are piling up, even since the submission of the Waiver Request by SUNX. The Waiver Request defined headwinds simply with the legislated reduction of the federal investment tax credit and with the declining New York State MW Block Incentive. Since then, The Federal government affirmed yet another tariff which increased costs, specific state policies have lowered incentives and supportive structures, and utilities are increasing their proposed allocation of costs to renewable projects.

Market structures in power development are often expressed as dollars per watt (\$/W), and at 22 MWac, these values quickly become material. Estimates for these values are laid out below:

- If the Projects are unable to reach commercial operation in 2022, which requires approval in 2021, the Projects will lose an investment tax credit value of \$0.044/W or over \$968,000;
- If the Projects are unable to secure a MW Block incentive by this spring or possibly summer, which requires Town approval among other items, the Projects MW Block will lose an incentive of \$0.11/W or over \$2,420,000. Indeed, SUNX missed the opportunity at \$0.02/W or over \$440,000 from a MW Block Incentive stepdown on January 5, 2021, one

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month after the Moratorium was enacted;

- This January 29, 2021, the Community Adder of \$0.16/W disappeared, costing the Projects over \$3,520,000;
- On March 1, 2021, the US Department of Justice affirmed tariffs on solar panels, which costs approximately \$0.04/W or over \$880,000; and
- Based on comparisons of DSUN's projects in the areas surrounding Caroline and 2020 projects with New York State Joint Utilities, DSUN has found that 2020 Projects cost approximately \$0.05/W more to connect than prior to 2020, or over \$1,100,000.

Solar photovoltaic energy has made great progress in New York State in the last eight years in which DSUN has been involved. However, the progress has not been quick enough to keep up with other market factors. In development, time is of the essence. If SUNX continues to experience these hardships and sees no path to permitting or partnership with the Town, it will be forced to stop investing in these potential projects. SUNX needs to have Town support if it is able to continue to invest assuming federal, state, and market forces realign. If SUNX is unable to find a path, Mr. Tavelli and his neighboring landowners of 502000-30.-1-1.1, 502000-30.-1-2.2, and 502000-30.-1-1.3 will be unable to take advantage of this challenge and will likely revert to hay and crop rotation on site. This will cost them millions of dollars over the upcoming decades in lost rent and undue economic hardship.

Respectfully submitted,

Chet Feldmann  
443-454-7990  
chet@distributedsun.com  
Distributed Sun LLC on behalf of SUNX, LLC