

JUDICIAL & LEGISLATIVE COMMITTEE

DATE: Tuesday, September 15, 2020

TIME: 9:00 a.m.

LOCATION: Room 114, Wood County Courthouse

1. Call meeting to order.
2. Public comments. Now or at the time the item is taken up. Rules may apply.
3. Review agreement and resolution to enter into a developer and operations agreement with Savion.
4. The committee may go into closed session pursuant to Wis. Stat. s. 19.85(1)(f) to discuss disciplinary data pertaining to a former employee.
5. Return to open session.
6. Adjourn.

Join by phone

+1-408-418-9388 United States Toll

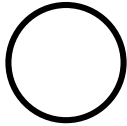
Meeting number (access code): 146 798 5383

Join by WebEx App or Web

<https://woodcountywi.webex.com/woodcountywi/j.php?MTID=m15dd08def19cc6fe1684c29f906d070c>

Meeting number (access code): 146 798 5383

Meeting password: JL0915



RESOLUTION#

Introduced by Judicial & Legislative Committee
Page 1 of 1

ITEM# 5-
DATE September 15, 2020
Effective Date September 15, 2020

Motion:

Adopted:

1st

Lost:

2nd

Tabled:

No:

Yes:

Absent:

Number of votes required:

☒ Majority

☐ Two-thirds

Reviewed by:

, Corp Counsel

Reviewed by:

, Finance Dir.

LAD

INTENT & SYNOPSIS: To authorize entry into a developer and operations agreement pertaining to the establishment and management of a large solar array complex.

FISCAL NOTE: None. By law the County will indirectly receive a payment in lieu of tax type of compensation from the operator of any power generating utility such as this one irrespective of the agreement. The agreement serves more to protect the interests of the County than it does to directly deal with compensation.

WHEREAS, Savion is a corporation that, among other things, develops solar arrays for the commercial production of power, and

WHEREAS, Savion is proceeding through state and federal permitting processes to construct a 150 MW solar array in the town of Saratoga, and

WHEREAS, although Savion doesn't need any county or town permits to proceed with its permitting process or to construct a solar array as proposed, it likely is helpful for Savion to have agreements with the local units of government in obtaining the state and federal permits and Savion has expressed a desire to become a community partner with the town and county such that all of our interests are advanced, and

WHEREAS, the interests of the town and the county are similar in some respects and diverge in other ways and the County has, therefore, worked independently with Savion to form an agreement that satisfies the needs and concerns of both the County and Savion, and

WHEREAS, the parties have negotiated the attached Development and Operating Agreement (Agreement) to address the respective interests of the County and Savion and after reviewing same the Judicial & Legislative Committee has voted in favor of the County Board authorizing and directing that the County enter into said Agreement.

NOW, THEREFORE, THE WOOD COUNTY BOARD OF SUPERVISORS HEREBY RESOLVES to authorize and direct the County Board Chairperson to execute duplicate originals of the attached Development and Operating Agreement between Wood County and Savion.

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BILL CLENDENNING (Chair)

BILL LEICHTNAM

KENNETH CURRY

ED WAGNER

JOSEPH ZURFLUH

Adopted by the County Board of Wood County, this day of 20 .

County Clerk

County Board Chairman

This Development and Operating Agreement (the “Agreement”) is between Wood County Solar Project, LLC (“Project Company”) and Wood County, Wisconsin (the “County”). Collectively, Project Company and County are referred to as the “Parties”.

RECITALS:

Project Company desires to develop, construct and operate up to a 150 megawatt (MW) solar photovoltaic electrical generating facility with necessary associated facilities such as underground power collection lines, access roads, Operating and Maintenance Facility, electrical substation and overhead transmission line connection in Wood County (the “Project”).

1. The Parties agree that it is in the best interest of each to memorialize the rights, obligations and responsibilities of the Parties with respect to the Project Company’s use of County roads, rights-of-way and drainage systems during construction and operation of the Project.
2. The Parties agree that the Project is under the jurisdiction of the Public Service Commission of Wisconsin (PSCW.)
3. The terms of this Agreement were designed by mutual efforts of the Parties and are mutually agreed upon by the Parties. The rights and obligations of Project Company and the County under this Agreement shall survive termination of the Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements contained herein, the Parties to this Agreement hereby stipulate and agree as follows:

1. **Planning.** The Parties understand and recognize that approval of the Project is under the jurisdiction of the PSCW and that the Project must seek concurrence and approval from the PSCW for substantive site design changes.
 - a. Proposed Site Plan: Exhibit A is the proposed plan for aboveground facilities of the Project.
 - b. Proposed Haul Route: Exhibit B is a map depicting proposed Project equipment Haul Routes.
 - c. Construction Schedule: Exhibit C is the proposed Project schedule.

Updated exhibits, if applicable, shall be provided by the Project Company and will supersede the attached exhibits after issuance of a Certificate Public Convenience and Authority by the PSCW.

At least 60 days prior to the start of construction, Project Company shall meet (the “pre-construction meeting”) with County officials responsible for roads and drainage and local emergency responders to present final plans for use of County roads, location of equipment laydown yards, finalize construction scheduling and discuss safety practices and coordinate local

emergency response capabilities. Project Company shall advise attendees of planned equipment and material delivery types and schedules. The Parties shall identify safety concerns and structural issues of any County road or road-related structure and propose mutually acceptable alternative routes or remediation methods for alleviating such concerns and issues.

2. **Initial Evaluation.** At the pre-construction meeting, the Parties shall decide upon a scope of work for evaluating the condition of County road and structures and drainage infrastructure within or adjacent to such County roads immediately prior to construction, which the Project Company will carry out at its expense. Project Company shall provide a complete copy of the evaluation ("Initial Evaluation") to the County prior to starting construction.
3. **Use of Roads.** The Parties agree that the Project may use County roads. The Parties acknowledge that in connection with construction, operation and maintenance of electric collection lines, communications cables, overhead transmission lines, and other equipment (the "Facilities"), that Project Facilities may cross County road rights-of-way and/or drainage systems within or adjacent to such County roads. Project Company agrees that it shall seek and obtain all permits required by law from any other governmental authority or third party. It is agreed that all road rights-of-way crossing shall be perpendicular to the right-of-way, plus or minus 30 degrees. If Project Company elects to cross any right-of-way with use of underground borings, any such underground borings shall commence and terminate outside of the right-of-way.
4. **Ownership.** Project Company shall have the right to sell, assign, or lease all or portions of its Facilities to other parties and, in that event, such other parties shall, with Project Company or, in the event of total assignment or transfer, in lieu of Project Company, have the same rights and responsibilities, in the manner and to the same extent provided for herein, to operate the Facilities in, along, under, and across the same road rights-of-way and drainage systems. Project Company, its successors and assigns, shall, at all times and at their sole expense, maintain the Facilities in good condition and repair.
5. **Road Repair Obligations.** Following issuance of a permit to proceed with construction being issued by the PSCW, Project Company will engage a professional engineer to prepare an "Initial Condition" report on all County roads designated as "Haul Roads." The same engineering firm will be engaged to prepare a post-construction road condition report on project "Haul Roads." These reports will serve as the basis for future discussions and decisions among the parties about needed post Project construction repairs. The Initial Condition report will be provided to the Parties. If no objections to the Initial Condition report are provided in writing by either Party within 30 days of receipt, the Initial Condition report will be deemed approved by the Parties. If either Party provides timely written objections, the Parties will work in good faith with the professional engineer to resolve such objections.

During the ongoing construction of the Project, the County shall be responsible for continued routine maintenance of the Haul Roads; provided, however, Project Company, at its expense, shall reimburse the County for the cost to repair any significant damage to Haul Roads within thirty (30) days after receipt of a detailed invoice itemizing the cost of such repairs. Within thirty (30) days after substantial completion of construction of the Project, the Project

Company, at its expense, shall have prepared and provide to the County, a Post Construction Road Condition Report. The Post Construction Roads Report will be the basis for preparation of the Final Roads and Drainage Restoration Plan ("Final Repairs Plan"). The Final Repairs Plan will be provided to the Parties. To the extent required under the Final Repairs Plan, the Project Company will reimburse the County for the cost to repair any damage to Haul Roads or drainage systems, to as good or better than the condition they were in prior to construction, as documented in the Initial Evaluation. If no objections to the Final Repairs Plan are stated by the Parties within 30 days of receipt, the Final Repairs Plan will be deemed approved and the County may commence work, subject to reimbursement by Project Company within thirty (30) days after receipt of a detailed invoice itemizing the cost of such repairs. The Parties shall rely upon the Initial Evaluation as a baseline for purposes of determining the type and restoration standard of repair required.

6. **Disputes.** Should a dispute arise between the Parties on whether the Final Repairs Plan adequately and completely describes repairs needed, or whether work has been completed in accordance with the Final Repairs Plan, the Parties agree that a final determination shall be made by an independent civil engineer licensed in Wisconsin and selected by mutual agreement (the "Independent Engineer"). If the Parties cannot agree on an Independent Engineer, they shall each select an independent engineer and the two independent engineers shall select a third independent engineer within thirty days, and this selected third independent engineer shall be the Independent Engineer for settling such disputes. Compensation for the Independent Engineer shall be shared by the Parties.
7. **Cooperation.** Project Company and County agree to communicate and cooperate in good faith concerning the conditions of County roads and preventing or correcting any adverse conditions with respect to County roads that may be created by the Project.
8. **Drainage Infrastructure.** If drainage infrastructure or systems located within or adjacent to County roads are damaged by any cause connected with the Project, Project Company shall reimburse the County for the County's cost to restore the drainage infrastructure or system to pre-existing condition or better, within thirty (30) days after receipt of a detailed invoice itemizing the cost of such repairs. Pre-existing condition shall mean the flow capacity existing immediately prior to the Project commencing construction. Project Company is responsible for all expenses related to repairs, relocations, reconfigurations and replacements of drainage infrastructure and systems. Project Company shall comply with all applicable state and local laws relating to drainage and storm water calculations and treatment.
9. **Revenue Hold Harmless.** Under Wisconsin law applicable on the effective date of this Agreement, the State of Wisconsin is required to make utility aid payments to the County if a solar generating system like the Project is located in the County. If applicable laws should change during the life of the Project reducing the amount of these state payments, Project Company shall compensate the County in an amount to equal the amount of annual utility aid payments required under laws applicable on the effective date of this Agreement less any annual property taxes paid by the Project Company to the County for the Project and less any

other annual payments to the County that are adopted to replace the utility aid payments. Such payments shall be made annually by the Project Company to the County no later than January 31 of the year following the year for which payment is made.

10. **Public Safety and Emergency Medical Services.** Construction of a solar photovoltaic electrical generating facility does not create any known unique or especially dangerous environments or situations for local emergency responders. Project Company will require that all contractors on the site during construction meet all state and federal laws for employee and public safety. Project Company intends to request meetings with site area Emergency Response agencies to provide project and facility familiarization and establish communication channels. Should any aspect of the Project construction or operations present unfamiliar equipment or situations for responders, Project Company will arrange for adequate professional training to deal with those concerns.
11. **First Responder Communication Systems.** Project Company agrees to cooperate with Wood County Emergency Management to investigate complaints of demonstrable emergency radio system operations interference or quality problems in or near the Project Facilities at any time during the life of the Project.
12. **Educational Opportunities.** The Project Company will in good faith consult with Mid-State Technical College, to review ongoing relevant curriculum and training opportunities to skill and upskill current and future workforce. This work could include, but not be limited to, academic program advisory support, curriculum development, assessment of student learning and collaboration in workforce advancement training grant opportunities. The Project Company further agrees to provide site access to Mid-State Technical College during build and operation for the purpose of educational learning opportunities, at times designated by the Project Company and that will not interfere with Project construction or operations.

The Project Company shall also in good faith consult with local elementary and secondary schools to explore the potential for educational opportunities. This may include guided tours, educational kiosks on site and Project Company's staff going to schools to provide basic scientific knowledge of how the solar arrays work specifically and renewable and sustainable energy in general.

13. **Workforce.** Project Company agrees to make good faith efforts to employ local residents during construction and operation of the Project.
14. **Indemnification.** Project Company agrees to defend, indemnify, and hold harmless the County and its supervisors, employees, and representatives (collectively the "Indemnified Parties") against any and all losses, damages, claims, expenses, including reasonable attorneys' fees, and liabilities for physical damage to the property of the County and for physical injury to any person, to the extent the same is proximately caused by Project Company's breach of this Agreement except to the extent caused by the negligence or intentional misconduct of the , County or any other Indemnified Parties. Furthermore, Project Company agrees to defend,

indemnify, and hold harmless the Indemnified Parties from any third party claims proximately caused by Project Company's breach of this Agreement, except to the extent that such claims are caused by the negligence or intentional misconduct of the County or any other Indemnified Parties. This indemnification obligation shall survive the termination of this Agreement.

15. **Insurance.** Project Company shall at all times during construction and operation of the Project carry General Liability insurance with a minimum of \$5,000,000 per occurrence, and Automobile Liability insurance with a minimum limit of \$1,000,000 per occurrence. Or, if the owner is a qualified self-insured in the State of Wisconsin, shall maintain not less than \$5,000,000 of general liability insurance on an occurrence basis over its self-insured retention that may change from time to time. Such insurance shall include automobile liability. Certificates of insurance will be provided to the County upon request.
16. **Security.** To guarantee compliance with the terms of this Agreement, payment of costs incurred by the County in accordance with this Agreement, and the remediation of any damage caused by Project Company's failure to comply with the terms of this Agreement, Project Company shall furnish security initially in the form of a bond, letter of credit, parent guaranty, or escrow. The applicable security shall remain in an amount equal to \$150,000, subject to allowable draws by the County.

After the Project Company's reimbursement of the County's repair costs after initial construction of the Project as contemplated in Section 5 and Section 8 of this Agreement, the security shall be released.

17. **Compliance with Laws.** Project Company shall at all times comply with all federal, state and local laws, statutes, ordinances, rules, regulations, judgments, and other valid orders of any government authority with respect to Project Company's activities associated with the Project and shall obtain all permits, licenses, and orders required to conduct any and all such activities.
18. **Signs and Lighting.** The Project Facilities and properties shall not be used for any type of advertising. The Project may erect and maintain a single project identification sign. The Project shall be minimally lighted so as not to disturb neighboring properties. Necessary lighting to provide safety and security of facilities shall be allowed. Project Company will provide County with a description of permanent Project lighting plans when available. Project Company shall contact every owner of residential property immediately adjacent to solar arrays and discuss in good faith a reasonable, strategically located visual buffer of plants that shall be installed by Project Company at Project Company's expense prior to the commercial generation of power from the Project.
19. **Buffer from Project Fence to Existing Residences; Setback.** Project Company shall not remove any existing, live trees that are within 50 feet of the Project property line boundary and solar panels will be setback a minimum of 100 feet from the Project property line boundary. In addition to and without limiting the Project Company's obligation to maintain the aforementioned 50-foot strip, Project Company, at Project Company's expense, shall also work with any owner of any residence existing as of the effective date of this Agreement that is within

500 feet of the Project perimeter fence, to design a plan to retain the existing vegetative buffer and review and discuss other cost-effective supplemental view shed buffering options, if necessary. Additionally, the Project Company agrees in good faith to consider any proposals by the County and other organizations within the County in the future to plant trees, shrubs and grasses within the buffer area (with no cost or financial obligation to the Project Company to install or maintain such plantings), and subject to Project Company's approval of such plantings, including the locations and species thereof, to ensure that such plantings do not pose the potential to interfere with the Project when such plantings reach maturity.

20. **Phasing.** The Parties acknowledge that the construction of the Project may take place through one or more phases at Project Company's election. In the event that Project Company elects to construct the Project in phases, the rights and obligations of the Project Company herein will continue to apply to any phase of the Project. The County is desirous of expansion of the Project. While there is no prohibition herein with respect to Project expansion in any particular direction, the County has stated a preference for any Project expansion to occur to the east of the proposed solar array. Project Company agrees to make reasonable efforts to provide notice to the County of the Project Company's potential expansion plans to allow the County to assist in bringing such expansion to fruition. It is the Parties' intent to continue in good faith with dialogue regarding expansion plans.
21. **Battery Storage.** Project Company is not currently proposing battery storage as part the Project. However, if battery storage becomes a component of the Project in the future, then Project Company will provide secondary containment for any battery storage technology that requires containment per applicable codes and standards including National Fire Protection Association 855, in an effort to prevent a potential release to the environment. If Project Company decides to add battery storage, current codes and standards will be reviewed and battery storage details will be provided to the County for review prior to construction.
22. **Petroleum Based Solvents.** Due to the high groundwater table in the area, Project Company will not use any petroleum-based solvents to clean solar panels or other components of the solar array within the Project.
23. **Decommissioning.** When operations of the Project cease, Project Owner shall, at its expense, remove all facilities to a depth of four (4) feet and restore the land to a condition reasonably similar to its pre-existing conditions. The Project's Access Roads can remain in place, subject to written approval of the landowner. The details of such removal and restoration shall be subject to the terms and conditions of all permits from the PSCW as well as the Certificate of Public Convenience and Necessity.
24. **Relevant Law.** Any and all disputes arising under this Agreement and/or relating to the actual development and/or construction of the Project shall be resolved pursuant to the laws of the State of Wisconsin.
25. **Notices.** Notices, requests, demands, and other communications shall be sent to the following addresses:

If to Project Company:

Wood County Solar Project, LLC
422 Admiral Boulevard
Kansas City, MO 64106
Attn: _____

If to County:

County Clerk
400 Market Street
Wisconsin Rapids, WI, 54494
715.421.8461

All notices shall be in writing. Any notice shall be deemed to be sufficiently given (i) on the date, if delivered in person; (ii) five (5) days after being sent by United States registered or certified mail, postage prepaid, return receipt requested; or (iii) on the next Business Day if sent by overnight delivery service (*e.g.* Federal Express) to the notified Party at its address set forth above. These addresses shall remain in effect unless another address is substituted by written notice. Notices may be sent via email transmission the email addresses provided, however, notice sent via email shall be followed by notice delivered by personal service or by registered or certified mail, return receipt requested, or by overnight delivery.

FOR COUNTY:

BY: _____

NAME: _____

TITLE: _____

DATE: _____

FOR PROJECT COMPANY:

WOOD COUNTY SOLAR PROJECT, LLC

BY: _____

NAME: _____

TITLE: _____

DATE: _____

BY: _____

NAME: _____

TITLE: _____

DATE: _____

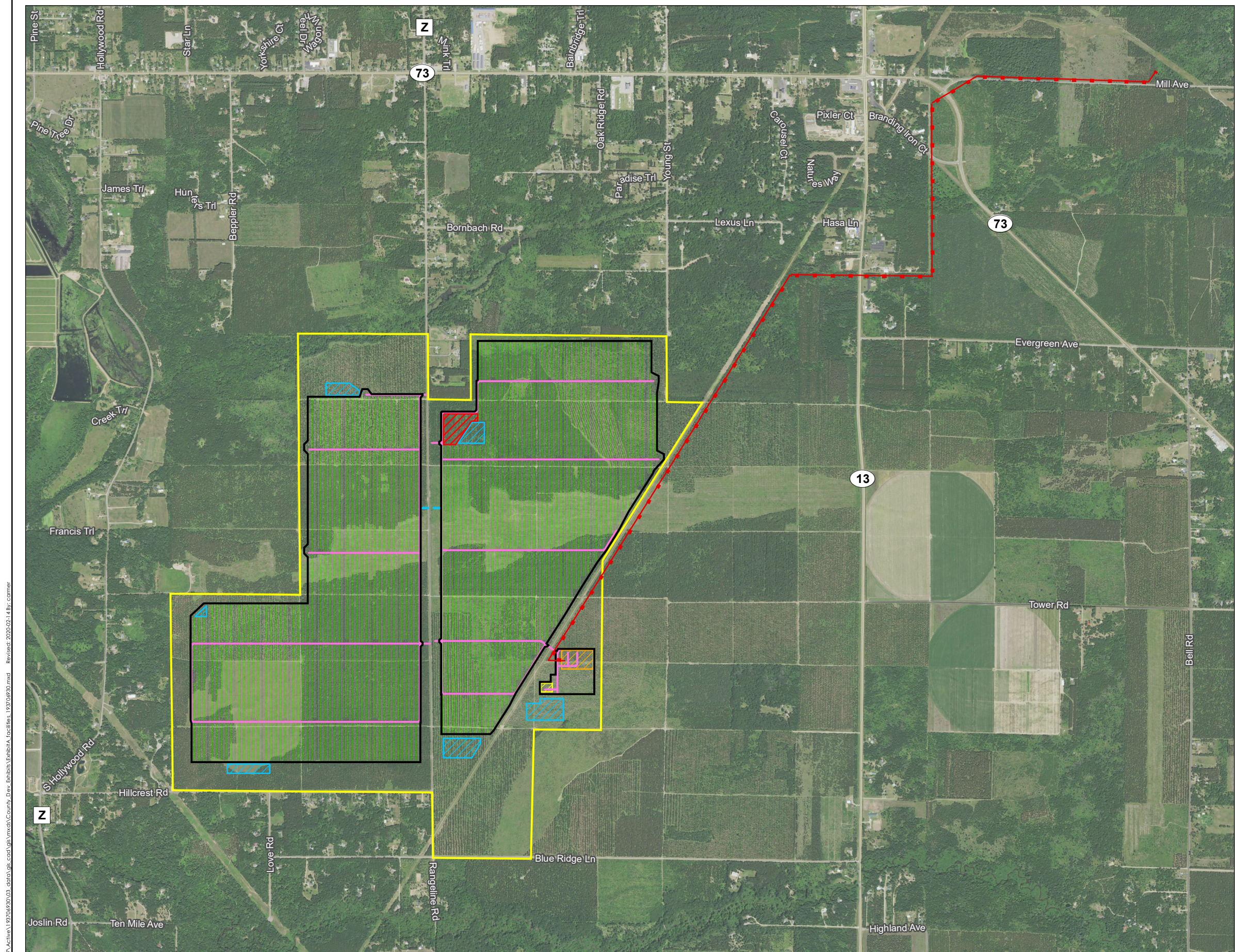


Figure No.
Exhibit A

Title
Proposed Site Plan

Client/Project
Wood County Solar Project, LLC
Wood County Solar Project

Project Location
T. of Saratoga,
Wood County, WI

193706930
Prepared by CA on 2020-02-11
Technical Review by JH on 2020-02-14
Independent Review by CP on 2020-02-14

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Legend

- Project Boundary
- Transmission Line Route Option 1
- Access Road
- Primary Facility Area Fence Line
- Substation
- O&M Building
- Laydown Yard
- Stormwater Basin
- Solar Panel



Notes

- Coordinate System: NAD 1983 HARN Wisconsin TM
- Data Sources Include: Stantec, Wood County Solar, LLC, WisDOT, WDNR
- Orthophotography: 2017 NAIP



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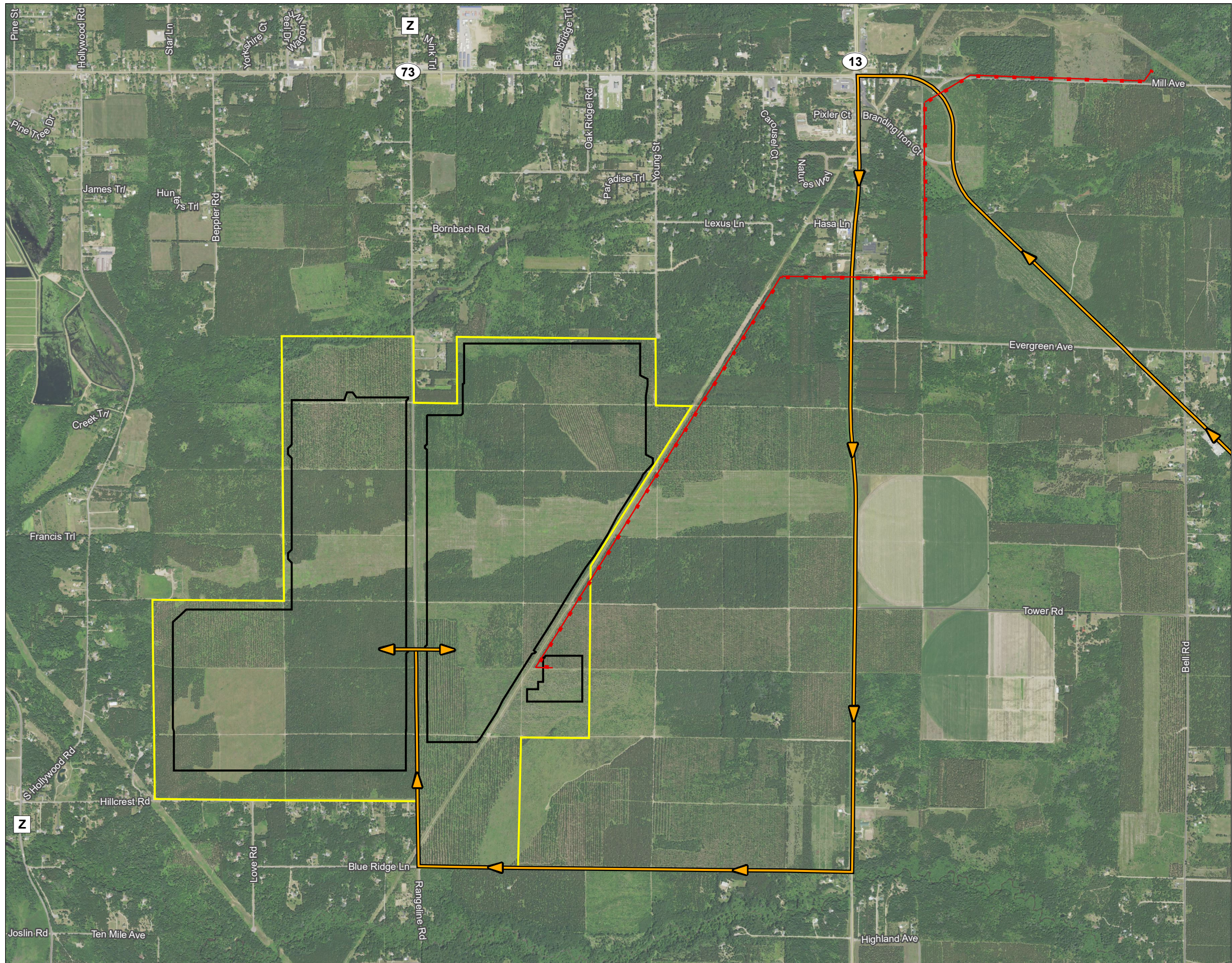


Figure No. **Exhibit B**
Title **Proposed Haul Route**

Client/Project
Wood County Solar Project, LLC
Wood County Solar Project

Project Location
T. of Saratoga,
Wood County, WI

193706930
Prepared by CA on 2020-02-11
Technical Review by JH on 2020-02-14
Independent Review by CP on 2020-02-14

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Legend
— Proposed Haul Route
— Project Boundary
- - - Transmission Line Route Option 1
□ Primary Facility Area Fence Line



- Notes**
1. Coordinate System: NAD 1983 HARN Wisconsin TM
 2. Data Sources Include: Stantec, Wood County Solar, LLC, WisDOT, WDNR
 3. Orthophotography: 2017 NAIP



Exhibit C: Proposed Construction Schedule

Activity	Start	End
Start of Construction	July 2021	
Site Preparation (Erosion Control and Tracking Pads)	August 2021	September 2021
Vegetation Removal	August 2021	September 2021
Staging and Laydown Areas	September 2021	October 2021
Access Roads	September 2021	October 2021
Drive Posts	October 2021	April 2022
Install Racks	October 2021	April 2022
Install Inverter Pads	October 2021	April 2022
Install Solar Modules	April 2022	October 2022
Construct Project Substation	March 2022	August 2022
Construct Gen-Tie Line	April 2022	July 2022
Commissioning	October 2022	November 2022
In-Service Date		November 2022