COUNTY FACILITIES COMMITTEE MEETING
AIRPORT AGENDA
June 23 2026

Committee Members: *BRUNO*, Conover, Patchett, Diamond, Strough, Beaty and Niles

I. Committee Meeting Call to Order by Chair

II. Approval of Minutes of Prior Committee Meeting

III. Privilege of the floor and public comment

IV. Action Agenda/New Business Items:

1. Request: – Establish Capital Project H-454
   Rationale: – SRE Snow Broom Acquisition
2. Request: – New Contract
   Rationale: – Awarding Bid and Authorizing Agreement with M-B Companies Inc.
3. Request: – Miscellaneous
   Rationale: – To amend 693 of 2022 to increase amount for grant application from $250,000 to $271,000
4. Request Amend Contract
   Rationale: Amend contract/agreement with Northern and Southern Gateway Renewables, LLC for sale and purchase of credits.

V. Discussion Items

1. FAA Annual Airport Inspection Report
2. Air Race X
3. Young Eagle Event

VI. Referrals/Pending Items

VII. Privilege of the floor and public comment

VIII. Motion to Adjourn

Attachments:

1. Resolution Request Form No. 8 – Establish Capital Project
2. Resolution Request Form No. 3 – New Contract
3. Resolution Request Form No. 20 – Miscellaneous
4. Resolution Request Form No. 4 – Amend Contract

RESOLUTION REQUEST FORM NO. 8

*Request to Establish Capital Project or Capital Reserve Project**

***If this is the result of a grant award, also complete and submit Form No. 5 or 6**

DEPARTMENT NAME: County Facilities - Airport

DATE: 6/23/2026

(a) Exact Title **and** Number of Project **(must be obtained from Treasurer's Office)**: SRE Snow Broom Acquisition H-454.

(b) Is this a Capital Project? Yes

(c) Is this a Capital Reserve Project? No

(d) Amount of Project: $825,161.00

(e) Source of Funding (including name & title of codes, etc.): FAA $783,902.00 (95%) State Match $20,629.00 (2.5%) and Local Match - $20,630.00 (2.5%) Reserve, A 892.00 Airport Repair & Projects

(f) Purpose of Establishment: For the acquisition of Snow Removal Equipment (Snow Broom).

RESOLUTION REQUEST FORM NO. 3

Request for <u>New</u> Contract

DEPARTMENT NAME: County Facilities - Airport

DATE: 6/23/2026

(a) Is this a Result of a Bid or Request for Proposal? **YES WC 17-26**

(b) Purpose of Contract: **To acquire Snow Removal Equipment (Snow Broom).**

(c) Name of Contractor: **M-B Companies, Inc.**

(d) Address of Contractor: **201 MB Lane, Chilton, WI 53014**

(e) Contractor's Contact Person and Telephone Number: **Tammy Lisowef (920) 898-1011**

(f) Has or will the Contract be provided, if so, please attach: **Will provide**

(g) Commencement Date of Contract: **Pending FAA Grant Award & BOS Contract Award**

(h) Termination Date of Contract: **N/A**

(i) Payment Provisions:
- i) lump sum amount
- ii) hourly rate amount
- iii) total amount not to exceed **$784,611.00**
- iv) how will payments be made (i.e. monthly, quarterly, upon completion of the project, etc.

(j) Where are the Funds for this Contract? List Budget Code, Object Code, Full Title* and Amount: **<u>OR</u>** Capital Project **<u>OR</u>** Capital Reserve Project Number, Title, and Amount: **$784,611.00 Capital Project H454 SRE Snow Broom Acquisition**

Sample: A.1010 470 Legislative Board – Contract $xx.xx
Capital Project No. H289.9550 480 – Old Jail Renovations $xx.xx

*as listed in budget and LOGOS

McFARLAND JOHNSON

90 East Avenue • Saratoga Springs, NY 12866
Phone: (518) 580-9380
www.mjinc.com

May 8, 2026

Mr. Robin Mapp
Airport Manager
Floyd Bennett Memorial Airport
443 Queensbury Avenue
Queensbury, NY 12804

Re: Award Recommendation
Floyd Bennett Memorial Airport
Snow Removal Equipment (SRE) Procurement
FAA AIP 3-36-0033-07X-2026

Dear Mr. Mapp:

One bid for the above referenced project was received on April 30, 2026, submitted by M-B Companies, Inc., 201 MB Lane Chilton, WI 53014. The bid amount is as follows:

1. M-B Companies, Inc.

   Total Amount Bid $784,611.17

The certified bid tabulations are enclosed. McFarland-Johnson, Inc. (MJ) provided an Opinion of Probable Cost for Bid Package as follows:

Total Est. Cost $850,000.00

The above total amount bid is within 8% of the total estimated cost.

MJ has completed a single bid contract analysis. The result of this analysis is as follows:

- Eleven plan holders maintained by the Warren County Purchasing Department were assumed to be potential project bidders. They were contacted to inquire as to why they did not submit a bid. Those that responded noted that they did not bid the project generally because they could not supply a piece of equipment that met the specification or was a comparable equal.
- No potential bidders requested extending the deadline for submitting bids. As such, there is no indication that the length of bidding period had any effect on the number of bids received.
- All requests for technical clarifications or modifications to the project specifications were responded to and addressed. Therefore, there were no indications that technical changes to the specifications would induce more interest in bidding on the project.

In addition, the following factors should be considered:

- There would be additional engineering contract costs for consultant's repackaging the bid documents if the project were to be rebid.
- FAA grant application deadlines are approaching, leaving little time for a re-bid opportunity that would meet General Municipal Law requirements.

After considering the results of the single bid analysis and the additional factors listed above, in our opinion, rebidding would:

- Likely not yield an increase in bidding competition,
- Likely not yield better bid pricing,
- Would risk meeting FAA deadlines.

Based on the contractor's qualifications, experience on similar projects, and the above-listed factors, we are recommending award of the contract in the amount of $784,611.17 to the following single bidder, contingent upon receiving concurrence of the contract award from the Federal Aviation Administration:

M-B Companies, Inc.
201 MB Lane
Chilton, WI 53014
Phone: (920) 898-1011

If you have any questions or require any additional information, please do not hesitate to contact this office.

Sincerely,
McFarland-Johnson, Inc.

Ashley Erdmann, P.E.
Civil Engineer

Enclosures

cc: Turner Bradford – McFarland Johnson
Kelli Walters - McFarland Johnson

Floyd Bennett Memorial Airport
Snow Removal Equipment (SRE) Procurement
Thursday April 30, 2026 3:00 P.M.

				McFarland-Johnson, Inc. 90 East Ave Sarartoga Springs, NY 12866 518-580-9380		M-B Companies, Inc. 201 MB Lane Chilton, WI 53014 (920) 898-1011	
Item No.	**Description**	**Unit of Measure**	**Estimated Quantity**	**Engineer's Estimate**		**Contractor 1**	
				Unit Price	Total Value	Unit Price	Total Value
E-100-1	All-Wheel Drive, Dual Diesel Powered Carrier Vehicle with 18-foot Broom	EA	1	$850,000.00	$850,000.00	$784,611.17	$784,611.17
				Total	**$850,000.00**	**Total**	**$784,611.17**

Ashley Erdmann, PE Project Engineer

This is to certify that this document represents the bids received on **April 30, 2026** and that we have reviewed the bid tabs.

WARREN COUNTY BID TABULATION SHEET

<table>
<tr><td colspan="2">BID NO: WC 17-26

ITEM(S): FLOYD BENNETT MEMORIAL AIRPORT SNOW REMOVAL EQUIPMENT (SRE) PROCUREMENT

DATE: APRIL 30, 2026

TIME: 3:00 P.M.</td><td>NAME & ADDRESS OF BIDDER

M-B Companies, Inc.
Attn: Tammy Lisowef
201 MB Lane
Chilton, WI 53014
Ph: 920-898-8046</td></tr>
<tr><td>DESCRIPTION OF ITEM</td><td>QUANTITY</td><td>BID PRICE</td></tr>
<tr><td></td><td></td><td></td></tr>
<tr><td>PURCHASE & DELIVERY FOR ONE (1) COMPLETE ALL-WHEELED DRIVE, DUAL DIESEL POWERED CARRIER VEHICLE W/ 18-FOOT BROOM AS SPECIFIED:</td><td>LUMP SUM</td><td>$784,611.17</td></tr>
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<tr><td colspan="3">BID AWARDED TO:</td></tr>
<tr><td>JULIE A. BUTLER, PURCHASING AGENT</td><td></td><td>TERM: One Time Purchase</td></tr>
</table>

RESOLUTION REQUEST FORM NO. 20

MISCELLANEOUS

Please List All Other Requests Not Covered by Previous Resolution Request Forms Here.
Please attach any backup information available and be as detailed as possible.

DEPARTMENT NAME: County Facilities - Airport

DATE: 6/23/2026

(a) Purpose of Request: **Amend Resolution 693 of 2022**

(b) Details: **Amending Resolution 693 of 2022 to increase total amount authorized for the grant application to the Federal Aviation Administration/New York State Department of Transportation for the 4 Box PAPI Runway 1-19 Replacement Project (Design and Construct) from $250,000 to $271,000**

(c) Previous Resolution Number: **693 of 2022**

(d) Where are the Funds (if required)? List Budget Code, Object Code, Full Title* and Amount: **TBD (90% $243,900 FAA 5% State 5% $13,550 local A9950.910 $13,550)**

Sample: A.8021 470 Planning & Community Development – Contract

* as listed in budget and LOGOS

Warren County Board of Supervisors

Resolution No. 693 of 2022

Resolution introduced by Supervisors Bruno, Magowan, Thomas, Strough, Conover, Beaty and Diamond

AUTHORIZING SUBMISSION OF A GRANT APPLICATION TO THE FEDERAL AVIATION ADMINISTRATION/NEW YORK STATE DEPARTMENT OF TRANSPORTATION FOR THE 4 BOX PAPI RUNWAY 1-19 REPLACEMENT PROJECT (DESIGN AND CONSTRUCTION) FOR THE WARREN COUNTY (FLOYD BENNETT MEMORIAL) AIRPORT

RESOLVED, that the Warren County Board of Supervisors hereby authorizes the Chair of the Board of Supervisors to execute and submit a grant application to the Federal Aviation Administration/New York State Department of Transportation for the 4 Box PAPI Runway 1-19 Replacement Project (Design and Construction) for the Warren County (Floyd Bennett Memorial) Airport in an amount not to exceed Two Hundred Fifty Thousand Dollars ($250,000), which includes a five percent (5%) local share of Twelve Thousand Five Hundred Dollars ($12,500), with a term to be determined, and be it further

RESOLVED, that upon notification of the award of said grant funds, the Chair of the Board of Supervisors be, and hereby is, authorized to execute the grant agreement(s) and any and all other necessary documents relating to said agreement(s), in a form approved by the County Attorney, and be it further

RESOLVED, that if any further funding becomes available during the term of this contract, no further resolution will be necessary to accept these funds and the Chair of the Board of Supervisors is authorized to execute any documents necessary to receive the funds.

RESOLUTION REQUEST FORM NO. 4

Request for Extending, Rescinding or Amending Existing Contract

DEPARTMENT NAME: Facilities - Airport

DATE: 6/23/2026

(a) Purpose of Contract Change: Purchase and Sale of Credits associated with the single sudit billing.

(b) Resolution Number, or Numbers if Amended, which Authorized the Original Contract: Resolution 454 of 2024

(c) Name of Contractor: Northern Gateway Renewables, LLC & Southern Gateway Renewables, LLC

(d) Address of Contractor: 101 Summer Street, 2nd Floor, Boston Massachusetts 02110

(e) Contractor's Contact Person and Telephone Number: Phoebe Bride 207 233-4131

(f) Commencement Date of Extension: Upon Execution

(g) Termination Date of Extension: as per original contract

(h) Payment Provisions:
- i) lump sum amount
- ii) hourly rate amount
- iii) total amount not to exceed $
- iv) how will payments be made (i.e. monthly, quarterly, upon completion of the project, etc.

(i) Where are the Funds for this Contract? List Budget Code, (with title), Object Code (with title), and Amount: **OR** Capital Project **OR** Capital Reserve Project Number, and Title, and Amount: NA.

AMENDMENT TO
CREDIT PURCHASE AND SALE AGREEMENT

This Amendment to Credit Purchase and Sale Agreement (this "***Amendment***") is entered into as of ______________ (the "***Execution Date***") by and among **Southern Gateway Renewables, LLC** a Delaware limited liability company ("***Seller***"), and **Warren County, New York,** a municipal corporation operating under the laws of the State of New York ("***Buyer***") in the following factual context:

WHEREAS, Seller and Buyer are parties to that certain Credit Purchase and Sale Agreement dated as of January 1, 2025 (the "***Agreement***"); and

WHEREAS, Seller and Buyer now desire to amend the Agreement with this Amendment to revise certain terms and conditions of the Amendment, on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises and of the agreements contained herein, the parties hereto agree as follows:

Section 1. Definitions; Interpretation. Capitalized terms used but not defined herein shall have the respective meanings set forth in the Agreement.

Section 2. Amendments to Agreement. The following amendments to the Agreement shall be effective upon the execution of this Amendment:

(a) Section 5.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

"5.1 <u>Sale and Purchase of Credits.</u> Beginning on the Commercial Operations Date and continuing throughout the Term, Seller agrees to sell the Quantity to Buyer, and Buyer agrees to accept the Quantity from Seller and to pay the Price multiplied by the Quantity. The Price is stated on <u>Exhibit A,</u> attached hereto and incorporated herein."

(b) Section 5.2(b) of the Agreement is hereby deleted in its entirety and replaced with the following:

"(b) Buyer understands that the Credits delivered to Buyer in any particular month will be reflected on Buyer's Utility Statement as a monetary credit amount and not as an electricity quantity; and that such credit will be reflected on the Utility Statement according to the Utility's billing cycle, which may be up to approximately three (3) months after the Facility generates the Energy associated with the Credits. Buyer also understands that the amount of Credits that appear on Buyer's Utility Statement may be reduced to reflect the Utility's deduction of the Price pursuant to the Utility's Net Crediting Program, and that Seller shall have fulfilled its obligations to deliver the Quantity hereunder in any given Utility billing period if the "Applied Credit" (as such term is used in the Net Crediting Program) in such period reflects the Quantity required to be delivered by Buyer hereunder for such period."

(c) Section 6.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

"6.1. Payment.

(a) Beginning with the first Billing Period that Seller receives billing information from the Utility demonstrating that the Credits have been applied to Buyer's Utility Accounts, during such time as a valid Net Crediting Agreement is in effect with respect to the Facility and Seller has elected to use Consolidated Billing to collect amounts due from Buyer hereunder, the Utility will invoice Buyer on Buyer's Utility Statement for the amount due to Seller based on the Price multiplied by the Quantity and will collect such amount from Buyer (which collection may be in the form of offsets to the amount of Credits reflected on Buyer's Utility Statement in accordance with the Net Crediting Program). Buyer agrees to timely pay all amounts due on Buyer's Utility Statement in each Billing Period during the Term.

(b) Subject to collection of the applicable amount due from Buyer, the Utility will remit payment of the amount due to Seller (as calculated pursuant to the Net Crediting Program) by electronic funds transfer to Seller or its designee atan account designated by Seller.

(c) At any time during the Term, after the first Billing Period in which Seller receives billing information from the Utility demonstrating that the Credits have been applied to Buyer's Utility Account, if (x) a valid Net Crediting Agreement is not in effect with respect to the Facility or (y) Seller elects not to use Consolidated Billing in connection with this Agreement, *then*:

(i) Seller shall provide written notice to Buyer that this Agreement will cease to use Consolidated Billing for Credits delivered from and after the date set forth in such notice;
(ii) With respect to all Credits delivered hereunder after such date, Seller shall provide an invoice to Buyer (the "***Invoice***") for the amount due for each Billing Period based on the Price multiplied by the Quantity, as set forth in Article 5.1; and
(iii)Buyer shall remit payment of the full amount of each Invoice to Seller by electronic funds transfer (or other means agreeable to Seller) to the account designated in writing by Seller.

(d) Before the Commercial Operations Date, Buyer shall take all actions necessary to allow Seller to electronically access, for the Term, the Utility Statement(s) and account information solely for purposes of fulfilling Seller's obligations under this Agreement.

(e) The Parties shall resolve Invoice disputes according to Section 6.3 (Invoice Disputes).

(f) The Parties acknowledge and agree that Seller has elected to use Consolidated Billing for the Facility as of the Effective Date. To that end, the Parties agree to take all commercially reasonable actions in connection with the implementation of Consolidated Billing as contemplated by the Parties in this Agreement, including without limitation modifying this Agreement or executing and delivering such other documents or instruments as may be necessary or appropriate, in each case so long as such actions do not result in any material cost to Seller or any interference or reduction of Seller's rights hereunder or Seller's financial benefits expected hereunder. Without limiting the foregoing, the Parties agree that such actions may include (x) revising this Agreement to comply with any existing or future requirements of the Net Metering Program, (y) authorizing the Utility to collect the fees due hereunder from Buyer and deliver the same to Seller, or to take other actions required by the Net Metering Program and (z) designating Seller as the party to receive direct payment from the Utility for the Credits delivered to Buyer hereunder in accordance with the procedures established by the Utility."

(d) Section 6.3 of the Agreement is hereby deleted in its entirety and replaced with the following:

"6.3 Invoice Disputes; Invoice Discrepancies.

(a) If a dispute arises with respect to any amounts due or payable with respect to the Credits or this Agreement while the Facility is using Consolidated Billing, such dispute shall be resolved in accordance with Section 6.3(b). If a Party, in good faith, disputes an Invoice with respect to any amounts due or payable while the Facility is not using Consolidated Billing, including any applicable disputes under Section 6.3(b), the disputing Party shall promptly notify the other Party of the basis for the dispute and Buyer shall pay the undisputed portion of the Invoice no later than the due date. Any required payment shall be made within thirty (30) calendar days of resolving the dispute. Any overpayments shall be returned by the receiving Party promptly following the request or, deducted from subsequent payments with interest accrued at the Interest Rate, at the option of the overpaying Party. The Parties may only dispute amounts owed or paid within twelve (12) calendar months from the Invoice date. If the Parties are unable to resolve an Invoice dispute under this Section, the Parties shall follow the procedure set forth in Article 11 (regarding dispute resolution).

(b) If the Parties determine that the value of Credits reflected on an Invoice is different than the value of Credits allocated to Buyer's Utility Account(s) (or, in the case of Consolidated Billing, the Parties determine that the value of Credits reflected on Buyer's Utility Statement is different than the amount of Credits required to be delivered by Seller hereunder), and that the discrepancy is due to an issue related to the Meter, Seller shall use commercially reasonable efforts to resolve the issue with the Utility. In all other cases, Buyer, as the Utility Account holder shall at its sole cost and expense resolve the discrepancy with the Utility; provided, that Seller will reasonably cooperate with Buyer's efforts in furtherance thereof so long as Seller is not required to expend any out-of-pocket costs or expenses in connection with such cooperation.

(e) Article 8 of the Agreement is hereby amended by adding the following as a new Section 8.4:

> "8.4 Termination for Utility Failure to Subordinate. Seller shall have the right to terminate this Agreement upon written notice to Buyer in connection with any failure or refusal of the Utility to agree to subordinate any security interest held by the Utility in the Credits to the lien(s) of any Lender(s) following a request by Seller. If this Agreement is so terminated, Buyer and Seller shall have no further obligations hereunder, other than obligations that by their terms expressly survive termination."

(f) The first paragraph of Section 10.2(a) of the Agreement is hereby deleted in its entirety and replaced with the following:

> "(a) Financing Arrangements. Seller may pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to a Lender or to the Utility in connection with the Net Crediting Program. Buyer acknowledges that in connection with such transactions Seller may secure Seller's obligations by, among other collateral, an assignment of this Agreement and a security interest in the Facility. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any Lender, Buyer agrees as follows:"

(g) The Glossary of Terms is hereby amended by adding the following defintions in alphabetical order:

> "***Consolidated Billing***" means a Utility process of issuing a single invoice that combines the fees due to the Utility for Buyer's electrical service and consumption with the fees due to Seller for the sale of the Credits hereunder, and collecting and remitting payment to Seller for sale of the Credits hereunder, as contemplated by the Net Crediting Program.
>
> "***Net Crediting Agreement***" means an agreement entered into between Seller and the Utility regarding their respective rights and obligations with regard to Consolidated Billing under the Net Crediting Program.
>
> "***Net Crediting Program***" means the net crediting program adopted by the Utility pursuant to the Order Regarding Consolidated Billing for Community Distributed Generation issued by the New York State Public Service Commission on December 12, 2019 in Case 19-M-0463.

Section 4. Representations and Warranties of Buyer and Seller. Each of the Buyer and Seller hereby represents and warrants to the other that (i) such Party is duly organized, validly existing and in good standing in its jurisdiction of organization, (ii) such Party has the requisite power and authority to enter into this Amendment and consummate the transactions contemplated herein; (iii) the execution and delivery by such Party of this Amendment have been duly authorized by all requisite action on the part of such Party; (iv) this Amendment is enforceable against such Party in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Applicable Laws affecting creditors' rights generally and the general principles of equity; and (v) the execution, delivery and performance by such Party of this Amendment and its obligations hereunder does not violate any of such Party's certificate of formation, operating agreement or other governing documents of such Party or any Applicable Laws applicable to such Party, or constitute a material default under any material contract to which such Party is a party or by which any of its assets are bound.

Section 5. Waiver; No Other Modifications. Except as specifically amended hereby, each and every other term and condition of the Agreement shall remain unchanged and in full force and effect without modification, and Seller and Buyer hereby ratify and affirm the same. The Agreement, as amended hereby, constitutes the entire agreement and understanding of the parties; and all prior negotiations, correspondence, proposals, prior documents and verbal understandings are hereby merged into the Agreement, as amended.

Section 6. Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.

Section 7. Counterparts. This Amendment may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which together shall constitute one and the same instrument. The parties hereto shall accept executed counterparts delivered by facsimile transmission as of equal effect as original signatures signed in ink and delivered by hand.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives on the Execution Date.

Southern Gateway Renewables, LLC

By: ___________________________
Name:
Title:

Warren County, New York

By: ___________________________
Name:
Title:

AMENDMENT TO CREDIT PURCHASE AND SALE AGREEMENT

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WHEREAS, Seller and Buyer now desire to amend the Agreement with this Amendment to revise certain terms and conditions of the Amendment, on the terms and conditions set forth herein;

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"5.1 Sale and Purchase of Credits. Beginning on the Commercial Operations Date and continuing throughout the Term, Seller agrees to sell the Quantity to Buyer, and Buyer agrees to accept the Quantity from Seller and to pay the Price multiplied by the Quantity. The Price is stated on Exhibit A, attached hereto and incorporated herein."

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(d) Before the Commercial Operations Date, Buyer shall take all actions necessary to allow Seller to electronically access, for the Term, the Utility Statement(s) and account information solely for purposes of fulfilling Seller's obligations under this Agreement.

(e) The Parties shall resolve Invoice disputes according to Section 6.3 (Invoice Disputes).

(f) The Parties acknowledge and agree that Seller has elected to use Consolidated Billing for the Facility as of the Effective Date. To that end, the Parties agree to take all commercially reasonable actions in connection with the implementation of Consolidated Billing as contemplated by the Parties in this Agreement, including without limitation modifying this Agreement or executing and delivering such other documents or instruments as may be necessary or appropriate, in each case so long as such actions do not result in any material cost to Seller or any interference or reduction of Seller's rights hereunder or Seller's financial benefits expected hereunder. Without limiting the foregoing, the Parties agree that such actions may include (x) revising this Agreement to comply with any existing or future requirements of the Net Metering Program, (y) authorizing the Utility to collect the fees due hereunder from Buyer and deliver the same to Seller, or to take other actions required by the Net Metering Program and (z) designating Seller as the party to receive direct payment from the Utility for the Credits delivered to Buyer hereunder in accordance with the procedures established by the Utility."

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"6.3 Invoice Disputes; Invoice Discrepancies.

(a) If a dispute arises with respect to any amounts due or payable with respect to the Credits or this Agreement while the Facility is using Consolidated Billing, such dispute shall be resolved in accordance with Section 6.3(b). If a Party, in good faith, disputes an Invoice with respect to any amounts due or payable while the Facility is not using Consolidated Billing, including any applicable disputes under Section 6.3(b), the disputing Party shall promptly notify the other Party of the basis for the dispute and Buyer shall pay the undisputed portion of the Invoice no later than the due date. Any required payment shall be made within thirty (30) calendar days of resolving the dispute. Any overpayments shall be returned by the receiving Party promptly following the request or, deducted from subsequent payments with interest accrued at the Interest Rate, at the option of the overpaying Party. The Parties may only dispute amounts owed or paid within twelve (12) calendar months from the Invoice date. If the Parties are unable to resolve an Invoice dispute under this Section, the Parties shall follow the procedure set forth in Article 11 (regarding dispute resolution).

(b) If the Parties determine that the value of Credits reflected on an Invoice is different than the value of Credits allocated to Buyer's Utility Account(s) (or, in the case of Consolidated Billing, the Parties determine that the value of Credits reflected on Buyer's Utility Statement is different than the amount of Credits required to be delivered by Seller hereunder), and that the discrepancy is due to an issue related to the Meter, Seller shall use commercially reasonable efforts to resolve the issue with the Utility. In all other cases, Buyer, as the Utility Account holder shall at its sole cost and expense resolve the discrepancy with the Utility; provided, that Seller will reasonably cooperate with Buyer's efforts in furtherance thereof so long as Seller is not required to expend any out-of-pocket costs or expenses in connection with such cooperation.

(e) Article 8 of the Agreement is hereby amended by adding the following as a new Section 8.4:

> "8.4 Termination for Utility Failure to Subordinate. Seller shall have the right to terminate this Agreement upon written notice to Buyer in connection with any failure or refusal of the Utility to agree to subordinate any security interest held by the Utility in the Credits to the lien(s) of any Lender(s) following a request by Seller. If this Agreement is so terminated, Buyer and Seller shall have no further obligations hereunder, other than obligations that by their terms expressly survive termination."

(f) The first paragraph of Section 10.2(a) of the Agreement is hereby deleted in its entirety and replaced with the following:

> "(a) Financing Arrangements. Seller may pledge, grant security interests, assign, or otherwise encumber its interests in this Agreement to a Lender or to the Utility in connection with the Net Crediting Program. Buyer acknowledges that in connection with such transactions Seller may secure Seller's obligations by, among other collateral, an assignment of this Agreement and a security interest in the Facility. In order to facilitate such necessary sale, conveyance, or financing, and with respect to any Lender, Buyer agrees as follows:"

(g) The Glossary of Terms is hereby amended by adding the following defintions in alphabetical order:

> "***Consolidated Billing***" means a Utility process of issuing a single invoice that combines the fees due to the Utility for Buyer's electrical service and consumption with the fees due to Seller for the sale of the Credits hereunder, and collecting and remitting payment to Seller for sale of the Credits hereunder, as contemplated by the Net Crediting Program.
>
> "***Net Crediting Agreement***" means an agreement entered into between Seller and the Utility regarding their respective rights and obligations with regard to Consolidated Billing under the Net Crediting Program.
>
> "***Net Crediting Program***" means the net crediting program adopted by the Utility pursuant to the Order Regarding Consolidated Billing for Community Distributed Generation issued by the New York State Public Service Commission on December 12, 2019 in Case 19-M-0463.

Section 4. Representations and Warranties of Buyer and Seller. Each of the Buyer and Seller hereby represents and warrants to the other that (i) such Party is duly organized, validly existing and in good standing in its jurisdiction of organization, (ii) such Party has the requisite power and authority to enter into this Amendment and consummate the transactions contemplated herein; (iii) the execution and delivery by such Party of this Amendment have been duly authorized by all requisite action on the part of such Party; (iv) this Amendment is enforceable against such Party in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar Applicable Laws affecting creditors' rights generally and the general principles of equity; and (v) the execution, delivery and performance by such Party of this Amendment and its obligations hereunder does not violate any of such Party's certificate of formation, operating agreement or other governing documents of such Party or any Applicable Laws applicable to such Party, or constitute a material default under any material contract to which such Party is a party or by which any of its assets are bound.

Section 5. Waiver; No Other Modifications. Except as specifically amended hereby, each and every other term and condition of the Agreement shall remain unchanged and in full force and effect without modification, and Seller and Buyer hereby ratify and affirm the same. The Agreement, as amended hereby, constitutes the entire agreement and understanding of the parties; and all prior negotiations, correspondence, proposals, prior documents and verbal understandings are hereby merged into the Agreement, as amended.

Section 6. Governing Law. THIS AMENDMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS.

Section 7. Counterparts. This Amendment may be executed in counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which together shall constitute one and the same instrument. The parties hereto shall accept executed counterparts delivered by facsimile transmission as of equal effect as original signatures signed in ink and delivered by hand.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have caused this Amendment to be executed by their duly authorized representatives on the Execution Date.

Northern Gateway Renewables, LLC

By: ___________________________
Name:
Title:

Warren County, New York

By: ___________________________
Name:
Title:


N44653
N16446